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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 24 April 2001, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Second periodic report of Venezuela

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Second periodic report of Venezuela (E/1990/6/Add.19; E/C.12/Q/VEN/1); written replies to the list of issues prepared by the Government of Venezuela (document without a reference number) (HRI/CORE.1/Add.3)

1. At the invitation of the Chairperson, the members of the delegation of Venezuela took places at the Committee table.

2. The CHAIRPERSON welcomed the members of the Venezuelan delegation.

3. Mr. DURÁN (Venezuela) introduced the members of the delegation. He said that Venezuela was in favour of monitoring by the United Nations, through its supervisory mechanisms, of the fulfilment of obligations entered into by States, and endorsed the recommendations for improving the protection of human rights subject to strict compliance with the principle of non-interference in the internal affairs of States. Indeed, Venezuela had frequently accepted voluntarily the competence and jurisdiction of international bodies and mechanisms, agreed to visits by United Nations officials to inspect the human rights situation in the country at first hand, and created a body of law containing mechanisms for bringing to justice the perpetrators, both individuals and groups, of human rights violations.

4. The new Constitution and its legal instruments gave constitutional status to international covenants and conventions and granted citizens the right of appeal to those bodies either individually or in groups.

5. Venezuela had taken and would continue to take an active part in international forums such as the United Nations Commission on Human Rights. The country's re-election to the Commission until 2003 had underlined its support for the creation of the Office of the High Commissioner for Human Rights as a way of streamlining and better coordinating the activities of the United Nations in that sphere. Venezuela coordinated its activities with those of various national governmental bodies with responsibilities in that field. The watchdog role of non-governmental organizations in the promotion and protection of human rights was acknowledged, as required by the Constitution, and to that end the Government had encouraged meetings between the competent government bodies and non-governmental organizations.

6. Venezuela was therefore gratified to be fulfilling its obligations as a State Party to the International Covenant on Economic, Social and Cultural Rights. The consideration of its second report had come at a time of far-reaching social, political and institutional change for the country, where human rights were high on the agenda.

7. The promotion and protection of human rights was one of the fundamental political goals of the Government of Venezuela as it strove to bring about the profound changes the country

needed within a peaceful and democratic framework, and was accorded the highest priority in both domestic and foreign policy. The universal and indivisible guarantee of human rights, respect for human dignity, full realization of human rights and freedoms, the right to life and social justice were considered essential concerns of a State based on the rule of law. The Government had set out to improve observance and application of the norms and arrangements governing them so that all Venezuelan citizens might feel protected and confident that their human rights would be respected and any violation investigated and punished.

8. The redefining of Venezuela had found expression in the new Constitution, which had been approved by popular referendum in December 1999 and embodied norms that brought it into line with the latest developments in international law on human rights, with society's need for justice and with the principles and requirements of the international treaties, convention and covenants which Venezuela had ratified. Those principles could be immediately and directly applied by the courts and other public authorities.

9. Thus the Constitution embodied a large number of rights of an expository character, but it also recognized all those rights and guarantees inherent in the human person that were not expressly set forth in its text but were covered by other laws. In connection with the option available to Venezuelans to invoke the Covenant and the rights set forth in it before the courts, he stressed that the Constitution established the right of every person to enjoy the protection of the courts in the exercise of their constitutional rights and guarantees, including those basic individual rights which were not expressly mentioned in it or in the international human rights instruments. Protection (amparo) was recognized as a guarantee of constitutional right, the purpose of which was to strengthen judicial safeguards for human rights, whether or not they were enshrined in the Constitution or international treaties. It followed that when passing judgement, judges had to take into consideration not only the country's Constitution and laws, but international texts on human rights that had been signed and ratified by Venezuela, including the International Covenant on Economic, Social and Cultural Rights. It was the duty of the Attorney-General's Office to ensure the observance of constitutional rights and guarantees including those set forth in international treaties, conventions and agreements, and to act in proceedings concerning constitutional protection.

10. With regard to economic and social rights, the Constitution established the State's fundamental role as regulator of the economy with a duty to secure all-round human development by creating national value added and sources of employment and to ensure legal safeguards and thereby encourage the domestic and foreign investment necessary to national development and the equitable distribution of wealth. It also established the right of consumers to quality goods and services, and to non-discriminatory treatment.

11. Under the Constitution every person had the right to health, all-round education and adequate housing, which laid upon the State the obligation to pursue policies aimed at a better quality of life, welfare and access to services generally, the creation of a public national health system and system of social security, governed inter alia by the principles of free access and universality, giving priority to preventive health and guaranteeing timely and good quality treatment. It was incumbent upon members of civil society to take an active part in promoting health and working towards the fulfilment of the obligation to ensure hygiene and sanitation, as set forth in the law and in international treaties and conventions.

12. All-round education was the right of every person and the State must create and sustain institutions and services that could ensure access to and continuation in the education system. The new Constitution also embodied the right of all people to adequate, secure, comfortable and hygienic housing with basic essential services and an environment that fostered good neighbourly and community relations; priority would be given to low-income families in the construction and allocation of housing.

13. Cultural values were an inalienable asset of the Venezuelan people and the State would guarantee the conditions, resources, budgets and legal instruments for their development.

14. There were several branches of power under the new constitutional framework: executive, legislative, electoral, judicial and civic. Civic power, an innovation, would be exercised through the Moral Council, made up of the Office of the Attorney-General, the Office of the Comptroller General and the Office of the Defender of the People, which would have responsibility for the promotion, protection and monitoring of all human rights and guarantees enshrined in the Constitution and international treaties, as well as the legitimate collective and individual interests of citizens.

15. Venezuela's new "Magna Carta", innovative in terms of its substantial social content, had explicitly extended the scope of social rights; similarly, it recognized other rights, expressly including all sectors of the population.

16. The fundamental rights recognized in the new Constitution fell into four categories: survival, development, protection and participation. It accordingly emphasized gender equality and recognized other elements of society as having rights that made them eligible for special protection, such as children, adolescents, young people, the elderly and people with handicaps or special needs. Children and adolescents were considered as developing persons with guaranteed rights and obligations attaching to all human beings without discrimination.

17. The Constitution also contained important provisions relating to the rights of indigenous communities: recognition was given to the ethnic and cultural diversity of the Venezuelan nation; the existence of indigenous peoples and communities, their social, political and economic organization, their usages and customs, languages, beliefs and traditions as well as their native rights over the lands and territories which they traditionally occupied were declared inalienable and imprescriptible; the indigenous languages were declared official languages in the federal entities in which they were spoken; the indigenous system of education would be intercultural and bilingual; and the right of indigenous peoples to political participation within the State was recognized. Furthermore, it was incumbent upon the State to define and guarantee the right to collective property in the indigenous territories, the right to education, health, housing, social security, recreation, credit, communications, the marketing of products and technical training with the aim of improving their income and quality of life. The Constitution also conferred powers on the authorities of the indigenous peoples to perform legal and administrative functions in accordance with their usages and customs, provided those did not conflict with the Constitution and the laws.

18. Regarding women's legal status with the proclamation of a Constitution focusing on gender, progress had been made in the recognition of the equality of women. Likewise, the

provisions of the Equal Opportunities for Women Act established that men and women must be equal with respect to the right to work, job opportunities, remuneration and social security. That was reflected in greater participation of women in all spheres of society.

19. The Venezuelan Constitution had thus laid the foundations of the country's political order within which absolute respect for human dignity, for the inherent rights of the individual and for the free development of the personality was accepted as a basic tenet of a State founded upon justice.

20. At international level, Venezuela was endeavouring to base the handling of economic matters upon an open, just and equitable system oriented towards development and non-discrimination, upon international cooperation at all levels, and upon the attainment of a New World Human Order.

21. Thus the foundations had been laid in Venezuela for extending the opportunities open to individuals and eliminating disparities through the eradication of poverty, better educational opportunities and other social services, expansion of productive employment and promotion of social integration. The economic goals thus served to promote the all-round development of citizens, while at the same time furthering the country's integration into the global economy. The main thrust of the Government's programme was economic, social, territorial, international and political equilibrium with emphasis on the fight against poverty and the welfare of the population as a whole. Recovery was evident in all areas of the economy, with the GDP showing an upward trend both in the public and in the private sectors, and signs of a positive impact on the job market and on employment.

22. The CHAIRPERSON invited Committee members to make general comments relating to the delegation's opening statement.

23. Mr. SADI asked what impact the Covenant, which had been in force in Venezuela for 23 years, had had on the country.

24. Mr. DURÁN (Venezuela) replied that the impact of the Covenant had been far-reaching, culminating in the promulgation in 1999 of the new Constitution embodying not only the rights set forth in the Covenant but others as well, which had brought about an improvement in economic, social and cultural rights.

25. The CHAIRPERSON invited members' comments on Venezuela's answers concerning numbers 1 to 3 of the list of issues (E/C.12/Q/VEN/1).

26. Mr. CEAUSU asked how the provisions of article 123 of the Constitution were to be implemented, particularly regarding the participation of indigenous peoples in the national economy and in the elaboration, execution and management of training programmes and in defining their own priorities. Further, he sought clarification on the substance of the organic laws on indigenous peoples. Would indigenous peoples under the provisions of those laws have the right to organize themselves and to set up their own bodies through which to define their own priorities and programmes? Would they have true representation and be able to organize their

own economic, social and cultural affairs, and did the authorities encourage them to participate in political and social life and to set up their own mechanisms for dialogue with the Government?

27. Mr. KOUZNETSOV asked whether the special legislation on indigenous peoples provided for under the Constitution had already been adopted and, if so, what changes it had brought about in the situation of the half a million indigenous people in Venezuela.

28. Mr. AHMED asked whether the draft legislation took account of the wishes of indigenous peoples regarding group rather than individual title to land, whether it gave them a say about the invasion of their territories by large mineral and gold mining companies, and whether it addressed the needs expressed by indigenous groups themselves.

29. Mr. TEXIER said that, according to the Society for Threatened Peoples, Presidential decree No. 1850 of 1997 regulating land use in the Imataca Forest reserve was exacerbating the situation of the indigenous inhabitants of the area. He wondered whether indigenous peoples' traditional land rights were being respected and what impact the decree would have on their way of life and, in particular, their health: 80 per cent of them were said to suffer from malaria, for example.

30. He wondered what the situation currently was with regard to agrarian reform. What was the current distribution of land? Venezuela was more urban than rural, but, as in Latin American countries in general, there remained large private estates (latifundios) and he wondered whether land was still as unequally distributed.

31. Mr. SADI said that he did not wish to encroach on other treaty-monitoring bodies' jurisdiction, but human rights were indivisible and it was therefore important to take account of what other committees said. He wondered how Venezuela viewed indigenous peoples from an overall legal perspective: were they treated as a minority within the meaning of article 27 of the International Covenant on Civil and Political Rights? If so, was Venezuela aware of the Human Rights Committee's General Comment No. 23 on article 27?

32. Mr. ATANGANA asked whether, when the State party had said land reform legislation was currently before the National Assembly, it had meant it was actually being discussed or simply that the draft legislation had been presented to the Assembly?

33. Mr. MARTYNOV said that, if he correctly understood the Government's answer to question 1 on the list of issues, there were 28 indigenous groups in Venezuela and 14 of those accounted for 97 per cent of the total indigenous population. If the other 14 groups accounted for only 3 per cent, did that mean their numbers were declining? If so, was there any government programme to ensure their survival?

34. Mr. DURÁN (Venezuela), in answer to Mr. Martynov, said that those indigenous groups were not declining in numbers and that a comprehensive plan for health, education and social development was in place in Amazonas, Delta Amacuro and Zulia, the states with the greatest percentage of indigenous peoples. Under the Constitution, indigenous peoples were guaranteed representation in the National Assembly and a permanent commission of indigenous peoples'

representatives in the Assembly had been coordinating the drafting of the new legislation on indigenous peoples. Thus, indigenous peoples were protected not only by constitutional guarantees but also by legal mechanisms implementing the Constitution.

35. With regard to agrarian reform, the draft Land Act had been introduced in the National Assembly early in 2001 and was currently being discussed. The legislation aimed at a better distribution of land and dealt with property rights, including indigenous peoples' collective property rights. It represented an attempt at explicitly implementing article 123 of the Constitution.

36. The aim of all the new legislation currently being considered was to control the impact on indigenous peoples of economic activities such as those mentioned by Committee members in their questions, particularly in Amazonas state.

37. Ms. LÓPEZ DE PENSO (Venezuela) said that new legislation on indigenous peoples' culture and land defined their rights to ancestral lands as inalienable and non-negotiable. It was a basic principle of the new Constitution that indigenous peoples should be consulted on issues relating to logging and mining. Recently, they had taken part in the process of granting authorizations in connection with a major power line project, in accordance with all political, economic and social agreements.

38. Mr. SALTRÓN (Venezuela) said the Office of the Defender of the People was a new institution established in the 1999 Constitution. According to the Constitution, article 280, its function was to promote, monitor and defend human rights, not only those enshrined in the Constitution but also those contained in international covenants and treaties. Article 281, paragraph 8, made it responsible for monitoring, protecting and guaranteeing the human rights of indigenous peoples. There were special offices with indigenous staff in the border states, where most indigenous peoples lived. They reported all allegations of human rights violations to the Office of the Defender of the People, who then investigated the matter and imposed sanctions on public institutions found guilty of such violations.

39. Concerning indigenous peoples' collective land rights, under article 126 of the Constitution indigenous peoples were an integral part of the Venezuelan State. The term "people" could not be interpreted in the same way as when it was used in international law. Indigenous peoples' culture, customs and education were guaranteed, but they were subject to the laws of the State and could not become autonomous or independent.

40. In the case of Imataca and the power line to Brazil, indigenous people had been given constitutional guarantees. They had put their case in the Supreme Court, and the Court had ordered an environmental impact assessment to be carried out. The Office of the Defender of the People was coordinating the study.

41. Mr. SADI wondered how extensive gold mining was in the areas inhabited by indigenous peoples, and whether cyanide was being used for gold extraction in any of those areas.

42. Mr. DURÁN (Venezuela) answered that cyanide was indeed being used in mining, which polluted the water, and there was a problem of deforestation. However, the Government was concerned and had taken measures to try to control such irrational pollution, notably the decree regulating the Imataca Forest reserve.

43. Mr. HUNT asked the delegation to clarify whether Venezuela had an independent national human rights institution that conformed to the Paris Principles of 1991, with a mandate to promote and protect economic, social and cultural rights.

44. He understood that Venezuela had developed a national plan of action on human rights, in accordance with the Vienna Declaration of 1993. The plan had been approved in 1997 and adopted in 1999. He asked what its current status was and what was being done to implement it. Might Venezuela consider approaching the Office of the United Nations High Commissioner for Human Rights for technical assistance with regard to the economic, social and cultural rights elements of the plan?

45. The delegation had stated in introducing the report that the eradication of poverty was a matter of high priority. Did the Government believe the Covenant had a role to play in the formulation of anti-poverty strategies? Did it believe that specific economic, social and cultural rights could reinforce such strategies?

46. Mr. MARCHAN-ROMERO, referring to the Government's written reply to question 4 in the list of issues, asked the delegation to clarify what was meant by "general or collective interests" (intereses difusos o colectivos), which was to him a novel concept distinct from rights, and to explain the fact that the Supreme Court appeared to have jurisdiction over such interests. Such general interests were doubtless of importance to Venezuelans, but the Committee was interested to know whether individual economic, social and cultural rights were given sufficient weight in the legislation to be invoked directly by individuals.

47. Mr. TEXIER observed that the creation of the Office of the Defender of the People had been a progressive step, but he wondered how independent it was from the Government and the Head of State. An interim appointment had initially been made, it appeared, and then the National Assembly had appointed a new Defender.

48. What powers did the Defender have in respect of violations of economic, social and cultural rights? Could a trade union or an individual, for example, address the Defender directly, and if so, what action could the Defender then take?

49. With regard to NGO involvement in the preparation of the report, he asked whether the NGOs had seen the State party's report in time to be able to formulate opinions.

50. The Committee's work was of use only if it produced results, and the involvement of civil society was important in getting results. When the Committee had completed its consideration of the report and issued its recommendations, did the Government intend to involve trade unions and NGOs, for example, in the implementation of those recommendations?

51. Mr. MALINVERNI asked whether Venezuelan courts regarded the Covenant as directly applicable, in the same way as the International Covenant on Civil and Political Rights. With regard to the links between constitutional guarantees and the rights guaranteed under the Covenant, what position did the courts take in the event that the Constitution treated a given guarantee differently from the Covenant? Did they apply the principle that the more favourable treatment would prevail?

52. He wondered to what extent it was in fact possible to invoke the Covenant in court. Could an indigenous person, for example, address the court in his or her own language? Could a person receive legal aid when bringing a case of alleged violation of economic, social and cultural rights? Lastly, he wondered what the role of the Defender of the People was in that regard.

53. Mr. RIEDEL asked the delegation for its views on the adoption of an optional protocol to the Covenant.

54. Mr. AHMED, referring to item 7 of the list of issues, asked what specific steps the Government had undertaken to inform the community about the Covenant and its implications. The 1999 Human Rights Report had alleged that the Government had made little effort to enforce its own 1993 law on that subject or, indeed, to protect the rights of certain vulnerable groups. A case in point was its failure to provide adequate access to parks, buildings and public transport for the disabled, as it was bound to do under the 1993 law.

55. Mr. SALTRÓN (Venezuela) explained that the Office of the Defender of the People had been established under the 1999 Constitution as an autonomous body and, together with the Comptroller-General's and the Attorney-General's Offices, provided citizens with a measure of control. Like the last two, it enjoyed total administrative and financial independence and would soon be endowed with its own law, which was shortly to be debated in the National Assembly. The holders of those three offices were elected from lists submitted not by the Executive, but by civil society, and any Venezuelan could apply. The election process was highly transparent, with applicants selected and vetted by a national committee, comprising members of civil society, that submitted a short list to the National Assembly, which in turn elected them by a two-thirds majority. During the transition, those three officials had been elected as an interim measure by the Constituent Assembly for the period from December 1999 to December 2000.

56. Prior to the establishment of the Office of the Defender of the People, a national human rights institution had been created by Executive Decree in 1994, and comprised representatives of the Executive Branch and of NGOs. That institution had submitted to the country a national human rights plan of action, in accordance with the Paris Convention. Although, with the creation of the Office of the Defender of the People, the Commission had lost its raison d'être, it maintained close relations with all the country's NGOs. Any citizen, NGO or trade union could lodge complaints of human rights violations with that Office. When the Confederation of Workers of Venezuela (CWV) had complained that the trade-union referendum violated freedom of association, the Office had decided that it might well violate certain constitutional articles, although the Supreme Court had later ruled otherwise.

57. Most Latin American populations were unfamiliar with their countries' Constitutions, let alone the rights bestowed on them by the international covenants. And yet the Venezuelan Constitution was in advance of those covenants. Its article 23, for instance, deemed international human rights treaties, pacts and conventions ratified by Venezuela to have constitutional status and take precedence over domestic law, insofar as they contained provisions more favourable to the laws of the Republic and the exercise of constitutional rights. The courts and other law and order bodies were required to enforce them immediately and directly. Venezuela went even further: under article 27 of the Constitution, anyone could appeal against a Supreme Court decision before an international tribunal.

58. Under the Constitution, collective and general (difusos) rights were the purview of the Office of the Defender of the People, as confirmed by the case law of the Supreme Court. The Office was always represented in courts hearing cases relating to such rights. Replying to another question, he said the Office had approached the Organization of American States and the World Bank for funds for the country's human rights promotion bodies. Plans were also afoot to launch a campaign to familiarize people with their rights and to encourage them to file complaints, which was not a normal feature of Venezuelan civic behaviour.

59. Ms. LÓPEZ DE PENSO (Venezuela) said that the Attorney-General's Office was the guarantor of the rights of the indigenous peoples, who had the right to an interpreter in their native languages in court trials. Anthropological studies had been conducted, the advice of indigenous elders sought, and customs and traditions taken into account in the event, for instance, of imprisonment.

60. Article 62 of the Constitution decreed that all Venezuelan citizens had the right to participate freely in public affairs directly or through elected representatives, although the Government aimed to promote direct participation with a view to all-round individual and collective development. To that end, the Ministries of the Interior and of Justice had recently organized an interagency meeting with representatives of the principal ministries and many NGOs, at which decisions concerning NGOs had been taken on the basis of their own specific proposals. Many of them were represented on the organizing committee for a national "neighbourhood" meeting on community participation in the administration and monitoring of public affairs in June 2001. The national human rights institution, created by presidential decree in 1998, was chaired by the head of the Secretariat of the President of the Republic, and included representatives of several NGOs.

61. Ms. FRANCIA (Venezuela) said that article 23 of the Constitution endowed all conventions and pacts ratified by Venezuela with constitutional status, making them an integral part of domestic legislation. The country's entire corpus of legislation was being constantly reviewed to bring it into line with the principles enshrined in the new Constitution and in the treaties and conventions in the process of incorporation. The courts were required to disregard any law that conflicted with the Constitution. Prior to the drafting of the new Constitution, constitutionality had been monitored through article 20 of the Code of Civil Procedure, which empowered courts to disregard such provisions. Currently that mandate for the courts was contained in article 334 of the Constitution.

62. Ms. TORRES DÍAZ (Venezuela) said that under article 83, paragraph 3 of the Constitution, in the event of a conflict the provision offering most protection to the worker was the one applied. One example was the 1997 reform of the 1990 Organic Labour Act, which had abolished the minimum age for joining a trade union.

63. Mr. DURÁN (Venezuela), at the suggestion of the CHAIRPERSON, said the delegation would defer for a subsequent meeting its answers to questions relating to national human rights plans of action and institutions, and the role of the Covenant in eradicating poverty.

64. Mr. HUNT thanked the delegation for its clarification regarding the autonomy and independence of the Defender of the People. He was, however, still unclear about the extent to which those quasi-human rights institutions dealt specifically with economic, social and cultural rights. To be blunt, did they receive the same attention as civil and political rights?

65. Mr. KOUZNETSOV said that the successful defence of human rights depended on the judicial system. Although the World Bank was indeed financing judicial reform, the process had been far from smooth, conflicting views having being expressed by the Supreme Court of Justice and the Council of State. What had been the results of the judicial reform? Did all Venezuelans, including the indigenous population, enjoy free access to the courts and to information on the workings of the judicial system?

66. Mr. PILLAY, noting the delegation's assertion that the provisions of the Covenant enjoyed the same status as constitutional rights, asked how the latter were enforced in the courts. While the right to food security and protection from hunger had been incorporated into the Constitution, the organization FIAN International had suggested that the situation might soon be improved by means of a national law. Was a special law, then, necessary for that right to be justiciable? Did the same situation prevail for Covenant rights? He sought an explanation of the information supplied by FIAN International that in October 2001 the Supreme Court had admitted a case concerning the rights of indigenous peoples, not on the grounds of those rights, which were enshrined in the Constitution, but on the grounds of environmental laws.

67. Mr. DURÁN (Venezuela) confirmed that World Bank resources were still being used for the reform of the structure of the judicial system. Replying to Mr. Pillay's question, he said that no special law was required for the justiciability of constitutional laws. As stated earlier, all rights stemming from an international covenant or convention were recognized by the Constitution and would have supremacy.

68. Ms. TORRES DÍAZ (Venezuela) said that the purpose of the reform was to guarantee equal access to justice for all Venezuelan citizens. The judicial system had previously been expensive and all court actions had had to be paid for. The new Constitution contained important principles ensuring that no distinction was made among the guarantees offered to all Venezuelans. It established that justice had to be free of charge. Those unable to pay lawyers could make use of the public defenders in various sectors. Under the judicial reform, new courts specializing in a variety of special areas were being established, and the judicial process was becoming more flexible. The new Penal Code afforded more immediate access and made the judicial process faster and less cumbersome. Comprehensive draft labour legislation was being

prepared and would afford immediacy and conciseness in order to resolve, rather than create, problems. Also, in the quest to transform the judicial system, the Supreme Court was dealing with all provisions that were not consonant with immediate access.

69. Mr. PILLAY said that, despite the delegation's assurances that Covenant provisions and constitutional rights were both enforceable, the FIAN report had claimed the opposite. Given that people might be unaware of their rights, as the delegation had itself admitted, what role did the national and regional authorities and the Defender of the People play? What concrete action was the Government taking for the genuine exercise of constitutional rights, especially those of the more vulnerable groups?

70. Mr. SALTRÓN (Venezuela) replied that, although the Office of the Defender of the People had been established in 1999 as the guarantor of human rights, in practice there were offices in each state, to which people had recourse in the event of violation of all rights, including the rights to health, education and housing. The task of the Defender of the People was, therefore, to monitor the proper functioning of the public services, such as labour, education and health, which had been the subject of most of the 16,000 complaints received in 2000. The people did have an institution to which they could turn for the protection of their economic, social and cultural rights.

71. Ms. LÓPEZ DE PENSO (Venezuela) said that it was important for Venezuela, as one of the human rights leaders in Latin America, that international conventions and covenants should be immediately, directly and permanently enforced by the courts and the forces of law and order. While Venezuela, during its transition period, had not yet brought all its domestic legislation into line with the Constitution, the voices of all citizens were nevertheless heard. The Government was also deploying sterling efforts with regard to hunger, viewing food not only as a material right but also in its cultural dimension.

72. Mr. DURÁN (Venezuela), responding to the question regarding the role of the Covenant in the strategy for eradicating poverty, said that many of the social rights enshrined in the Covenant were part of the national strategy adopted. Venezuela had incorporated those rights in various social programmes which related directly to the issue of food, on the subject of which information was provided at national level and by NGOs. A prominent body in that area was the National Nutrition Institute (INN). Questions of food and nutrition must be considered in the context of Latin America as a whole and great efforts had been made in that regard in Venezuela, for example by the National Food Council. Similarly, a presidential food commission had also been set up to offer support at national and local levels. Programmes establishing popular eating places in local communities had been introduced by the INN. Two years previously a maternal breastfeeding programme had been set up by the Ministry of Health and Social Security within which stocks of milk were supplied for mothers and children. Basic education programmes were also provided to improve nutrition and the food situation in general.

73. Ms. HANSON (Venezuela) added that a food programme was in place at the pre-school and basic education level for children up to the age of 12. Although the implementation of the programme depended on the location of individual schools, on average between 25 and 75 per cent of children's daily calorie needs were supplied. In addition, a new comprehensive care programme had been introduced in 1999, which provided schoolchildren

with food on a daily basis and also medical and psychological care. In relation to hunger, effective action was being taken in the form of general programmes, although the Government could not physically guarantee that all children received the necessary calorie intake.

74. The CHAIRPERSON said that rather than requesting details of specific food programmes, the Committee wished to know what the role of the Covenant was in the eradication of poverty in Venezuela. What laws and constitutional provisions were still to be adopted in that regard?

75. She requested the Venezuelan delegation to respond to Section II of the Committee's list of issues relating to the general provisions of the Covenant (questions 9 to 12).

76. Mr. DURÁN (Venezuela), responding to question 9 of the list of issues, said that no complaints had been received by the Defender of the People regarding infringement of the physical rights of indigenous people. Specific efforts had been made to introduce comprehensive health, social development and education programmes in border areas which were mainly populated by such peoples. Regarding question 10, the State provided indigenous communities with protection, in accordance with the national Constitution and ILO Convention No. 169: Indigenous and Tribal Peoples, 1989.

77. Turning to question 11, he said that in 1999 Venezuela had given special attention to the repercussions of the torrential rains experienced at that time. Special State assistance funds had been earmarked and international organizations had provided support to counter the effects of the rains and to improve the distribution of compensation in the form of housing and education. A broad plan to help people find work in the affected areas was currently being developed. As to equal rights of men and women, article 5 of the 1999 Constitution guaranteed equality of opportunity and non-discrimination against women. Similarly, article 6 of the Constitution provided for the existence of laws and regulations, the spirit of which ran counter to the primacy of men over women. Great efforts were being made to overcome the discrimination against women resulting from traditions and local idiosyncrasies. Legislation currently being adopted contained a series of provisions indicative of the State's determination to ensure equality of opportunity in all economic, political and social fields.

78. Mr. HUNT asked whether any reliable current data were available concerning domestic violence. Did public information campaigns exist to combat it and what was the legal framework adopted? He wondered what specific powers courts possessed to deal with such violence and whether the State or civil society provided shelters or refuges for the victims.

79. Mr. TEXIER (Country Rapporteur) noted that the subject of the right to asylum and refuge had not been broached in the Venezuelan report. Although article 69 of the Constitution recognized the right to asylum and refuge, the country had not ratified the 1951 Convention relating to the Status of Refugees. Nor had it ratified the Convention relating to the Status of Stateless Persons (1954) or the Convention on the Reduction of Statelessness (1961). Where refugees were concerned, it was reality that mattered and their exact situation should be clarified. Although the National Assembly was drafting a basic law with the help of the United Nations High Commissioner for Refugees (UNHCR) and NGOs, and though there were not many refugees in Venezuela, problems nevertheless existed in regard to Colombian nationals fleeing

their own country in fear for their safety. A number of such cases had been brought before the Interamerican Human Rights Commission, which had made some recommendations on the situation of 287 Colombian refugees in a Venezuelan village. What had been done about those recommendations which specified that the refugees in question should not be sent back to their own country? Further, did the Venezuelan authorities envisage ratifying the international instruments he had referred to concerning refugees and stateless persons?

80. Ms. BARAHONA-REIRA said that the existence of a legal instrument, i.e. the new Constitution, which extended the gender perspective was of great importance. Regarding the law on equality of opportunity for women, she wondered what institution existed for ensuring that it was applied, and what degree of legal and financial autonomy that body had? The delegation had acknowledged that reform of the Penal Code was necessary, since some of its provisions violated the fundamental rights of women. What fundamental innovative rules were being adopted to eliminate discrimination against women? Did a specific law exist to combat domestic violence and had reform of the Penal Code been envisaged in that regard? Fourthly, the rules for access to property and land for women should be clarified. Were any changes likely to be made? In Latin America in general, indigenous communities often had collective ownership of properties through their families or under group systems. What was the exact situation in Venezuela?

81. Mr. THAPALIA, quoting a 1999 report by the State Department Human Rights Board of the United States of America, said it appeared that in Venezuela, although the law prohibited discrimination based on ethnic origin, members of the country's indigenous population frequently suffered violations of their rights. They were also commonly refused access to basic health and education services and were exposed to high risks of cholera, malaria and other diseases. Likewise, the 1993 law passed to protect the rights of disabled people was largely ineffectual in that no significant efforts had been made to implement its provisions, inform the public of it or change society's prejudices towards the disabled. Concluding observations to similar effect had been made in 1997 by the Committee on the Elimination of Discrimination against Women (CEDAW) which had expressed concern that Venezuela had made little real progress in implementing the relevant Convention and had not responded effectively to problems such as domestic violence, female illiteracy and discrimination in the workplace. In view of the problems which obviously existed, what was the status of women in Venezuelan society in relation to equality of opportunity, domestic violence and educational opportunities? What measures had been taken by the Government to eliminate de facto and de jure discrimination against women, the disabled, indigenous populations and refugees?

82. Furthermore, following the establishment of the National Women's Council (CONAMU) in 1992, what specific recommendation had been made regarding the promotion of women's scientific knowledge and literary and artistic expression as a means to their attainment of full equality?

83. Mr. PILLAY expressed great surprise that no complaints had been received from members of indigenous communities about discrimination. According to a statement made by the Society for Threatened Peoples to the Commission on Human Rights, the National Constitution of Venezuela established equality before the law but had unfortunately been used as an instrument to encourage discrimination against indigenous people. The State refused to

acknowledge the specific rights of indigenous people as a distinct group. In that regard, the delegation should be aware that the prohibition of discrimination was of immediate application and that laws and specific measures could easily be enacted by the State party to that effect.

84. Mr. MARTYNOV said that very few indigenous people actually owned land since they preferred collective to individual ownership. He wondered whether there was any legal possibility for indigenous people to establish group ownership or any established practice for allocating land to such communities.

85. Mr. RODRIGUEZ CEDEÑO (Venezuela) said that national policy in relation to internally displaced persons and people from other countries was based on the 1951 Convention Relating to the Status of Refugees. A clear distinction should be drawn between internally displaced persons and refugees from other countries, since their respective situations were very different. The States where refugees seeking asylum were moving were legally competent to deal with the matter, but of the 100 million internally displaced people in the world 25 million were under the protection of UNHCR.

86. A meeting had recently been held in Venezuela with a view to defining the policy for dealing with asylum requests and to setting up a national committee responsible for producing appropriate legislation. Venezuela had also chaired the UNHCR Executive Committee for two years, during which time it had sought to promote the rights of internally displaced persons and refugees. The need for regulation in relation to such individuals was very clear from the 1951 Convention, and Venezuela's national policy on the matter was equally clear.

87. Mr. SALTRÓN (Venezuela), responding to the question regarding the Colombian nationals who had crossed the border into Venezuela, said that those refugees had been given suitable food and shelter and had been granted asylum. None of them had been expelled. The border between the two countries was in fact very permeable, with workers crossing in both directions and people seeking temporary refuge in one or other country. Currently 187 cases of victims of violent persecution were being dealt with and their asylum applications processed.

88. Mr. DURÁN (Venezuela) admitted that few reliable and up-to-date statistics existed on domestic violence. A National Women's Institute had been set up recently and had taken a series of measures to provide relevant data on that problem and on all features of the National Plan for Women which would become an integral part of the National Statistical Plan, thereby providing up-to-date figures. The Institute in question was responsible for applying rules and regulations relating to women's rights, including the initiation and implementation of the National Plan. A series of campaigns had also been organized with local authorities and representatives of civil society to raise awareness of the various aspects of women's rights. Some State health centres had reception facilities for female victims of domestic violence.

89. Ms. LÓPEZ DE PENSO (Venezuela) said a law on violence against women and the family had recently been introduced. In view of its recent enactment, it had not yet met all expectations. It had, however, made provision for ad hoc prosecutors and set up a directorate for the protection of minors' rights which, in case of complaint, established an initial stage of

conciliation between the parties. If that was unsuccessful, further enquiries were instituted. Initially, it had been thought that violence was committed mainly by men against women. However, in many cases, it had been found that men had been forced to leave their homes. Above all, Venezuela recognized the need for equality before the law in accordance with the Constitution.

90. Finally, in answer to the question on refuges for victims of domestic violence, the new law provided for such facilities and the government bodies concerned would take steps to establish them.

The meeting rose at 1 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 24 April 2001, at 3 p.m.

Chairperson: Mr. CEAUSU

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Venezuela (continued)

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Venezuela (E/1990/6/Add.19); core document (HRI/CORE/1/Add.3); list of issues (E/C.12/Q/VEN/1); background document (E/C.12/CA/VEN/1); written replies of the Government of Venezuela (document without a symbol distributed at the meeting in Spanish only) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Venezuela resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Venezuela and the Committee to continue their discussion.

3. Mr. AVENDAÑO TIMAURY (Venezuela), referring to item 4 of the list of issues, said that individuals could invoke international instruments before the courts, as was evident from the case law of the Supreme Court. He added that the National Assembly was now engaged in bringing national law into conformity with the texts of the international instruments.

4. Mr. TEXIER asked what had been done to implement the March 2001 decision of the Inter-American Commission on Human Rights setting a 15-day deadline for the Venezuelan authorities to reach a decision on the future of 287 Colombian refugees in Venezuela. Given that the right of asylum and the status of refugee were recognized under the Venezuelan Constitution, was there anything to prevent Venezuela from ratifying the 1951 Convention relating to the Status of Refugees and the 1954 Convention relating to the Status of Stateless Persons? Finally, in the case of people waiting for a decision to be taken on whether to grant them refugee status, did Venezuela plan to adopt a law establishing a mechanism to examine such applications and to grant refugee status? He emphasized the importance of doing so, since people holding temporary documents did not have access to economic, social and cultural rights, or to social security, and could not attend school.

5. Mr. AVENDAÑO TIMAURY (Venezuela) replied that on several occasions Venezuela had had to cope with inflows of Colombian migrants fleeing the violence in their country, and had provided them with the medical care and the humanitarian assistance required in such situations. Once the crisis had passed, those persons had voluntarily returned to their country of origin. The Venezuelan delegation, he repeated, had every wish to be transparent, and his country would shortly provide additional information about the non-ratification of the international instruments already mentioned and on the question of the 287 Colombian refugees mentioned by Mr. Texier.

Article 6: Right to work

6. Mr. DURAN (Venezuela) referred to unemployment trends and drew members' attention to the two tables annexed to the written replies furnished by his Government. The tables, containing updated figures broken down in one table by sex and in the other by sex and age group, showed the fall in unemployment and the corresponding rise in the number of jobs in the formal sector of the economy between 1997 and 1999.

7. Ms. TORRES DIAZ (Venezuela) added that there were no special arrangements for protecting workers in the informal sector. However, they could be treated as "independent workers" whose status was governed by the Basic Labour Act, giving them the right to organize and to conclude agreements similar to collective agreements. It should be noted that under the new Constitution the State had an obligation to secure respect for the rights of all workers without discrimination.

8. With regard to the employment of people with handicaps, the 1993 law on the integration of disabled persons required public and private enterprises with over 50 employees to employ a number of disabled persons equivalent to at least 2 per cent of their total workforce.

9. In addition, new rules would shortly be adopted to prevent accidents at work and thus provide better protection for workers. In the event of occupational disease or accident, workers would be paid compensation.

10. As for the place of women on the labour market, she welcomed the efforts of the National Women's Institute, the successor to the National Women's Council. Among its goals was the promotion of women's employment in all fields of activity. It was also conducting a campaign to promote equality between men and women with regard to the right to work, job vacancies and remuneration. Moreover, in view of the high number of women holding posts of responsibility, including Government posts, one could conclude that they were not discriminated against on the labour market, ability and experience being the factors taken into account. In that respect, it was now an offence under the Basic Labour Act to discriminate in employment on grounds of sex.

11. Mr. GRISSA asked for more information on child labour, which was not mentioned in the report. Up to what age were children required to attend school, and what was the minimum age for employment? Finally, there was a contradiction between paragraphs 37 (f), 41 and 43 of the report concerning free choice of employment and the restriction placed on that freedom by the trade unions. What was the real situation? Was there really free choice of employment, independently of the authority of the trade unions, or were they all-powerful in the matter?

12. Mr. THAPALIA said there were consistent indications that unemployment was speedily rising and that women were among those most seriously affected. In its concluding observations on the third periodic report of Venezuela (A/52/38/Rev.1), the Committee on the Elimination of Discrimination against Women had found it worrying that the reduction in the number of civil servants had resulted in women losing their jobs, which forced them to look for work on the

informal labour market and to take low-paid jobs. In those circumstances, what specific steps were being taken by the Government to enable women to exercise fully their right to work? He also requested details on unemployment patterns; the extent of long-term unemployment; the percentage of refugees, young people and handicapped persons among the unemployed; and any programmes of technical and vocational training which were being carried out to help unemployed people in those categories.

13. Mr. TEXIER also inquired whether the Government had implemented a policy of training or access to employment to combat youth unemployment, and whether the delegation agreed with the figures published by the Central Office of Statistics and Computing, according to which the rate of unemployment at the end of the first quarter of 2000 had been 15.3 per cent. With regard to dismissals, he would like to know how they were regulated under Venezuelan law and whether the judicial authorities or the Ministry of Labour had some control over the terms of dismissal.

14. Mr. MALINVERNI said he was struck by two statements in paragraph 37 of the report (E/1990/6/Add.19): on the one hand, that the workers did not make optimal use of the opportunities offered them for training, education and apprenticeships, and on the other hand, that the lack of information on the labour market and the lack of resources were obstacles to the geographical mobility of workers. That was a surprising thing to say in a country where the unemployment rate was relatively high. What was the explanation for those two phenomena, and what steps had been taken to deal with them?

15. Ms. TORRES DIAZ (Venezuela) explained that the law prohibited the employment of children under 14. Minors aged between 14 and 16 could work, but only with the permission of their legal guardian. In any case, work by minors was strictly regulated, in the child's own interest. Minors received a programme of education and training supplied by a national institution, and the law provided that during such apprenticeship periods, in either the public or the private sector, a minor should be paid, but at a level of remuneration different from the minimum wage in force for workers in general.

16. With regard to dismissals, the law on social security which was now in preparation provided for compensation, whether or not the dismissal was justified. A worker who considered his dismissal to be unlawful could appeal to the labour court, which would rule on whether it was justified. If it decided that the dismissal was unlawful, the worker must be reinstated immediately and must receive compensation in an amount corresponding to the total sum of wages outstanding for the period of the appeal proceedings. The amount of the compensation was also calculated according to the length of time the worker had been employed in the enterprise. The notice period was taken into account for the purpose of calculating length of service. Finally, some workers, including trade union representatives and pregnant women, enjoyed a degree of immunity against dismissal.

17. Mr. DURAN (Venezuela) explained that the unemployment figures given in the second periodic report of Venezuela were correct, because they came from the Central Coordination and

Planning Office. The rate quoted by the delegation represented preliminary data for February 2001. Members of the Committee need not doubt the figures supplied, as Venezuela had considerable experience of compiling unemployment statistics through detailed surveys.

18. Mr. GRISSA said he was sorry the replies given by the delegation were incomplete. According to information in his possession, over 60 per cent of children enrolled in education left school before the age of 15. There must, surely, be a fear that those children were either on the street or at work.

19. Ms. HANSON (Venezuela) replied that the delegation would supply more detailed information on the question at a later stage.

Articles 7 and 8: Right to just and favourable conditions of work; trade union rights

20. The CHAIRPERSON invited the delegation to reply to questions 18 to 23 of the list of issues (E/C.12/Q/VEN/1).

21. Ms. TORRES DIAZ (Venezuela) said that the Basic Labour Act provided for the minimum wage to be fixed in three different ways: through consultation within a tripartite commission consisting of representatives of the Government, employees and employers, through collective bargaining at the regional or national level, or by presidential decree. In all cases, it was fixed according to the cost of a basket of household goods and on the basis of statistics supplied by the Central Bank and the National Economic Council. A presidential decree of 3 July 2000, following consultation with the most representative bodies, including the Central Bank and the trade unions, had set the minimum wage in urban areas at 144,000 bolivars. However, the law made provision for different minimum rates of pay according to geographical area, the number of hours worked, the workforce and the nature of the work. Moreover, enterprises which had established themselves in an area affected by a natural disaster were exempt from applying the general regime. Inspectors from the Ministry of Labour carried out regular inspections and questioned employees in order to ensure compliance with the minimum conditions laid down in the Basic Labour Act or in the relevant decrees.

22. As for involuntary unemployment, the new law on social security provided for a benefit payable to all unemployed people. The restrictions in the old law had been lifted, and the State had released funds to pay the benefit in the informal sector. With regard to the conditions of employment of foreigners in Venezuela, under the law all workers enjoyed the same conditions irrespective of their nationality. Nevertheless, a ceiling was set on the proportion of foreigners who could be employed in an enterprise, and restrictions were imposed on the appointment of foreigners to certain posts. There were, however, exemptions from those provisions, for example where refugees were concerned.

23. As for the representation of workers, the law recognized that all workers had the right to be represented. However, foreigners could only become trade union leaders once they had lived in Venezuela for 10 years. The trade unions represented all workers vis-à-vis the administrative and judicial authorities in defending the rights derived from the Basic Labour Act, the Constitution, the various conventions and all other relevant provisions. All negotiations concerning working conditions must be conducted between the employers and the trade union

representing an absolute majority of the workers. Of course, a number of different trade unions might join together to obtain such a majority, and thus be in a position to ensure that employers respected the conditions of employment. Finally, in reply to question 23 on strike statistics, she said that in the course of 2000 there had been only 31 strikes, and conciliation had often enabled disputes to be settled.

24. Mr. SADI asked what criteria were applied by the tripartite commission which was responsible for fixing the minimum wage, and whether Parliament had any say in the matter. He thought the minimum wage was grossly inadequate, in both urban and rural areas, given that a family needed 230,000 bolivars in order to live decently. Even more seriously, was it true that the minimum wage was not always observed in the informal sector, in which half the economically active population worked? As for working conditions, Venezuela did have appropriate regulations, but apparently the inspectors of the Ministry of Labour made only infrequent checks on the application of the regulations. What was the true position?

25. Mr. RIEDEL expressed the same concern. Although the law which laid down the safety and health conditions to be observed in the various areas of employment had been in force since 1986, the necessary implementing decrees had not been adopted. That being so, what steps could be taken against a factory which did not comply with the rules on safety and health at work? Could it be shut down?

26. According to paragraph 72 of the report, workers were not allowed to sleep at their work sites, except for those who had to remain there for work reasons or on account of force majeure. Under what circumstances would force majeure apply? Paragraph 74 stated that if the workplace was 30 or more kilometres from the worker's place of residence, the employer was bound to provide free transport. That was a very praiseworthy arrangement, but did it apply in all cases, or only in the oil industry? Who was responsible for ensuring it was carried out? Finally, he inquired whether foreigners received the same safety-at-work protection as Venezuelan citizens.

27. Mr. GRISSA said he was puzzled by the information in paragraphs 75 and 76 of the report. According to paragraph 75, enterprises employing more than 500 workers who had to work and reside in an unpopulated place more than 50 kilometres from the nearest populated place had to provide sanitary housing for them. What was the position with workers residing 49 kilometres away from the nearest populated place? Paragraph 76 of the report stated in addition that enterprises employing more than 1,000 workers in sites more than 100 kilometres away from a town with hospital services, or more than 50 kilometres if the services could not be used in an emergency because there were no means of communication, must maintain a health centre or establishment equipped to provide health care. Did that mean that an enterprise employing 999 workers would have no legal obligation to do so? What would happen if an accident occurred at a workplace in the middle of the Amazon? How could such an apparently meaningless law be applied? Furthermore, since there were no statistics in the report on accidents at work, including fatalities, he hoped the delegation could supply some details of those, and of accidents in mining and forestry.

28. Ms. FRANCIA (Venezuela) replied that her delegation was not attending the Committee meeting in order to defend laws adopted by the State party which some people found pointless.

29. The CHAIRPERSON said States parties did not, of course, have to defend the usefulness of laws in force on their territory, but experts were nevertheless free to state critical opinions when they saw fit. He hoped the dialogue could be continued in a constructive manner, in a spirit of mutual understanding and respect.

30. Mr. REIDEL said that a spirit of constructive dialogue also involved States parties admitting that there were problems in some areas, and that progress was still needed. It was often more useful, in a dialogue, to admit the existence of a problem than to avoid questions. The Committee was fully aware of the scale of the obligations arising from the Covenant and the difficulty for States parties in complying with them, and it would not therefore be surprising for a State to admit to encountering difficulties in certain areas.

31. Mr. TEXIER assured the delegation of Venezuela that the Committee had every intention of carrying on a dialogue. He was also glad to see that article 91 of the Venezuelan Constitution mirrored exactly the wording of article 7 of the Covenant, stipulating that the purpose of the minimum wage was to ensure a decent living for all workers and their families. It seemed, however, that in Venezuela the minimum wage was not enough to meet basic needs. As of 1 May 2000, according to the information available, it had been 144,000 bolivars in the towns and 129,000 bolivars in the countryside, whereas the basket of household goods, in a narrow sense, was priced at 202,000 bolivars and in a broad sense at about 600,000. Had any steps been taken to close the gap between the minimum wage and basic needs?

32. He also asked the delegation what was the weekly or daily legal duration of work corresponding to the minimum wage, and whether overtime was paid at a higher rate. Could the delegation also state whether Venezuela complied with the labour law principle of "equal pay for equal work" and, if not, say whether any measures were planned to rectify the situation?

33. He wondered whether Venezuela had any policy for preventing accidents at work and punishing those responsible, since safety at work was always linked to a dual policy of prevention and prosecution. Were labour inspectors or courts empowered to decide to shut down a workplace at which there was a risk of fatal accidents because safety rules were not complied with?

34. On the question of trade union freedom, he was particularly concerned with the referendum held in December 2000, on a decision of the national electoral council, to enable all citizens to state their view on the question of trade union elections. The referendum had been much criticized and had been ruled contrary to the ILO Convention concerning Freedom of Association and Protection of the Right to Organize. Some members of the Committee even felt it might be contrary to the spirit of article 8 of the Covenant, because it constituted external interference in a matter which should be the sole prerogative of the trade unions. What was the delegation's view on that? It was now known that trade union leaders in Venezuela had been dismissed from office following the referendum, and that a new draft law on trade union freedoms was under consideration. Had it been adopted yet? Lastly, could the delegation state what specific measures had been taken, if any, to ensure equal pay as between men and women?

35. Mr. MALINVERNI asked the delegation to state how long unemployment benefit lasted and what provision there was when the entitlement came to an end. What proportion of the worker's most recent salary did the unemployment benefit represent?

36. Mr. AHMED noted that in Venezuela the minimum wage was fixed by presidential decree which the Congress had to implement and was not allowed to amend. Could the delegation also explain why Venezuela had excluded domestic workers and concierges from its minimum wage legislation?

37. Ms. TORRES DIAZ (Venezuela) explained that the minimum wage was fixed according to the cost of a basket of household goods. Contrary to what was said in the report, the basket had recently been priced at 144,000 bolivars, not 129,000. A commission was now engaged in revising the minimum wage in order to bring it into line with workers' actual purchasing power. The minimum wage was compulsory throughout the national territory, and corresponded to 40 hours of work a week, divided into five days of eight hours each. The Constitution expressly prohibited night work exceeding 35 hours a week, or overtime. Even though time schedules were often exceeded, it was not always possible to assess the number of hours actually worked, and as a result hours worked above the limit were not necessarily paid.

38. Venezuela respected the principle of "equal pay for equal work". The disparities recorded in practice between women's and men's pay were not due to discrimination against women, but to the worker's length of service in the enterprise.

39. The law provided for administrative and civil penalties, and even criminal penalties, for failure by an employer to comply with safety and health rules. The social security system provided that the employer had to compensate a worker for an industrial accident or work-related illness, even if consequent upon an act of negligence by the worker, but on condition they were not intentionally caused. The Basic Labour Act entitled any worker or member of his or her family to apply to the court for compensation for moral or physical damage, and where appropriate the court could find the State, as well as the employer, liable.

40. As for termination indemnities, under the law domestic workers were excluded from some forms of social security coverage. The law applied only to contributors of working age. Termination indemnities were paid for 18 months, and represented 60 per cent of the last salary earned. A draft law was under consideration to extend the scope of the law in question to the whole country.

41. She explained that the term "concierge" applied not only to hotel concierges and porters, but also to people engaged in maintenance work on business premises. Concierges also received a minimum wage, calculated to take account of part of the value of the service accommodation made available to them by the employer. On the other hand, it was correct that the minimum wage did not apply to domestic workers, because they were treated as if self-employed.

42. As for breaches of safety-at-work rules, she emphasized that labour inspectors were bound to visit workplaces once a quarter to make sure that the minimum conditions prescribed in the law on industrial safety were observed. In the event of an infringement, the enterprise was summonsed and compensation proceedings instituted, which might result in the employer being

ordered to pay a fine. There were no circumstances in which an enterprise employing 1,000 workers could dismiss a worker in order to evade a legal obligation. The referendum held in 1999 had not infringed trade union freedoms. The Venezuelan Constitution had established that work and education were the two essential motors of the economy. Her country had changed from being a representative to being a participatory society, and the Constitution stipulated that any matter affecting society as a whole must be put to the people for approval.

43. She explained that the draft law on trade union freedoms was under discussion in the National Assembly. With regard to the steps taken to guarantee equal pay as between men and women, there was no actual difference in pay for the same work. In the event of a dispute, it was possible to apply to the labour inspectorate or the competent courts. Moreover, the law provided that any reduction in pay was a legitimate reason for the worker to terminate the employment contract. A termination on such grounds would be regarded as unfair dismissal on the part of the employer, who would then have to pay a fine under the Basic Labour Act.

44. Mr. GRISSA said he was glad to learn that a company employing 1,000 people could not dismiss anyone without incurring certain legal obligations. What about enterprises employing 800 people, who would not be covered by the law in question? If their employees were working on a site in the middle of the jungle, what would happen if there was an accident?

Articles 9 and 10 of the Covenant: Right to social security and protection for families, mothers and children

45. The CHAIRPERSON invited the delegation of Venezuela to reply to the questions on articles 9 and 10 of the Covenant.

46. Ms. TORRES DIAZ (Venezuela) explained that the law on social insurance, which had been in force for many years, provided for benefits to be paid for maternity, invalidity, retirement, occupational illness and accidents at work, as well as family allowances and survivors' benefits. There was a draft law on social security containing new provisions consonant with the principles laid down in the Venezuelan Constitution, based on the principles of free and universal access. The retirement pension scheme was governed at the national level by two legal texts, one for the public sector and the other for the private sector. However, the schemes provided for in most of the collective agreements or industry agreements in independent institutions such as universities were different from those required by law and which were adapted to particular sectors or enterprises. The retirement age was normally 60 for men and 55 for women who had the required length of service and had contributed for the prescribed length of time. Under the new draft law on social security, the retirement age was set initially at 60 for both men and women, subject to a minimum period of contribution. The pensionable age would be gradually increased to 65. Workers were covered by social security, whether they were Venezuelan citizens or foreigners, but the law on social insurance excluded temporary and casual workers and members of the national armed forces. For some categories such as drivers and craftsmen, membership in a social security scheme was optional. Under the existing system, those wishing to draw benefits must belong to an association which paid the employer's contribution. However, the new draft law on social security gave social protection to all workers, whatever their function or job.

47. With regard to the ILO recommendations on maternity protection, the reform introduced in 1990 had extended the benefits payable to women. In the first place, women were entitled to four and a half months' maternity leave, instead of three months as before. In the second place, pregnant women and women who adopted children enjoyed special protection: after the birth or adoption, they were guaranteed to keep their jobs for a year. The ILO recommendations on extending maternity benefits at the national level were taken into account in the draft law on social security.

48. As for the payment of benefits to claimants living abroad, she explained that the arrangements for payment had been changed in 1993. In future, it was the banks which would be required to pay the benefits to the claimants, who were scattered among more than 20 countries.

49. Ms. LÓPEZ DE PENSO (Venezuela) explained that in order to deal with the problem of domestic violence against women and children, the National Assembly was planning a thoroughgoing reform of the Criminal Code, including the provision that charges for sexual violence would be dropped if the victim agreed to marry her attacker. Women victims of violence were given medical and psychological care under pilot rehabilitation programmes. As for violence against children, including adopted children, an organic law had recently been promulgated to protect the physical and moral integrity of young children and adolescents. It guaranteed equality of treatment and prevented discrimination of any kind. The National Children's Institute, like other institutions involved with minors, played an important role. Workshops were held at the national level to rehabilitate child victims of violence, in the context of programmes geared to education and to both mental and physical health.

50. In reply to the question in paragraph 30 of the list of issues (E/C.12/Q/VEN/1), she said that street children, now called "children of the motherland" in Venezuela, were catered for by programmes for gradual rehabilitation implemented not only by public authorities, but also by private enterprises. The principles laid down in the Constitution, including equality of treatment in health and education, must be applied to the social protection of children.

51. Mr. AHMED, returning to the question of violence against women, asked for details of the new law on the subject adopted by Venezuela: in the event of rape, did the presumed victim always have to undergo a medical examination within 48 hours of the attack? He mentioned a clause in the Criminal Code whereby any person suspected of rape could escape sentence by a court by marrying the victim before sentence was pronounced. He asked whether that provision, which was humiliating for the victim and could encourage rape, was still in force. Finally, did the Criminal Code punish marital rape?

52. Mr. SADI asked whether domestic violence had decreased since the entry into force in 1999 of the law on violence against women. Had there been any change in the attitude of the police towards victims? Concerning the situation of street children, who were prone to become involved in begging, theft and prostitution, he felt the programmes in place were not sufficient for resolving a problem on such a serious scale. He thought more vigorous measures were needed to tackle the phenomenon at the root.

53. Mr. MARTYNOV inquired what percentage of people were covered by the social security system, and whether it had increased since 1998. What steps had been taken to deal

with trafficking in children from other Latin American countries? Finally, did the Government plan to amend the article in the Basic Labour Act which, exceptionally, allowed children aged between 12 and 14 to work, contrary to the relevant ILO convention?

54. Mr. PILLAY asked the delegation to answer the questions in paragraphs 26 to 28 of the list of issues (E/C.12/Q/VEN/1), which were based on comments by ILO. Had the situation with the social security system improved? Had the Government taken steps to extend maternity benefits to all women workers? Would the draft law on social security tackle all those problems?

55. Ms. BARAHONA RIERA asked how article 88 of the new Constitution, which guaranteed housewives the right to social security, would be implemented in the new law on social security. Would such women have to contribute to the social security scheme? Concerning the reform of the Criminal Code, she would like to know if there had been any studies of the effects of the provision by which prosecutions for sexual attacks could be dropped if there was a marriage. Was there a draft law to modify that provision?

56. Mr. GRISSA inquired about the true situation of street children. Children were a country's future and should be protected to the full.

57. Mr. RODRIGUEZ CEDEÑO (Venezuela) said that Venezuela was not a party to the 1951 Convention relating to the Status of Refugees, but had acceded to the 1967 Protocol relating to the Status of Refugees, which recognized the same rights and obligations as did the Convention. The most important point was that those rights and obligations should be recognized in order to make it possible to protect refugees. The 287 Colombians who had requested political asylum were entitled to do so, which did not mean that their applications must automatically be granted. The Venezuelan Government was bound to consider their request, and had set up a national commission for that purpose.

58. Ms. LOPEZ DE PENSO (Venezuela) said that her country had recently adopted a law on violence against women, and intended to introduce mechanisms to prevent and punish acts of domestic violence. By emphasizing the need to preserve the integrity and dignity of the victims and their mental and psychological well-being, the law raised awareness of the problem. "Reception centres" had been established to provide temporary shelter to persons claiming to be victims of that type of violence. They could also seek intervention by the police, and when the police investigated facts of that nature they were obliged, under the Code of Criminal Procedure, to notify the public prosecutor within 24 hours. That innovative procedure, which was based on an immediate hearing of the parties, had the advantage of providing a rapid solution to conflicts.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5)

Draft statement on poverty and the International Covenant on Economic, Social and Cultural Rights (HR/CESCR/NONE/2001/6)

59. Mr. HUNT (Rapporteur) introduced the draft statement on poverty and the International Covenant on Economic, Social and Cultural Rights which he had prepared at the request of the Bureau. The aim of the draft declaration was to define, on the conceptual level, the relationship between the Covenant and poverty elimination, which had become a primary objective for many States and international organizations, so that all the players could draw up practical programmes. He invited members of the Committee to submit amendments, and expressed the hope that the draft declaration could be adopted during the current session.

The meeting rose at 6 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 25 April 2001, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Venezuela (continued)

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GE.01-41449 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Venezuela (E/1990/6/Add.19; E/C.12/Q/VEN/1; written replies to the list of issues prepared by the Government of Venezuela (document without a reference number); HRI/COR/1/Add.3) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Venezuela resumed their places at the Committee table.

2. The CHAIRPERSON invited members of the delegation of Venezuela to continue their replies to questions 24 to 31 of the list of issues, relating to articles 9 and 10 of the Covenant.

3. Mr. DURÁN (Venezuela) said that his delegation would respond to the remaining questions on social security, land ownership and statistics relating to children.

4. Ms. TORRES DÍAZ (Venezuela) said that, regarding whether trade unions could limit freedom of employment, the previous National Constitution had contained a trade union clause, incorporated into the 1990 Organic Labour Act, whereby subject to agreement between workers and employers, a maximum of 75 per cent of enterprise staff could be nominated by a trade union. The trade union clause had been eliminated from the new National Constitution and, in the discussions currently in progress on collective labour agreements the parties concerned were trying to reach an accord on eliminating the percentage provision or deleting the clause altogether.

5. As to wage fixing, for cases where the Tripartite Commission proposed a minimum wage level and the National Congress was not in agreement with that level, the mechanisms provided by the 1990 Organic Labour Act had been rescinded during a partial reform of the Act carried out in 1997. Where the Tripartite Commission proposed a minimum wage level to the National Executive, the Executive must consider that proposal and establish a minimum wage through a decision of the Ministry of Labour.

6. Article 88 of the National Constitution recognized the work of women in the home and guaranteed them social security coverage. No compulsory contribution existed for such workers since the guiding principle was one of universality in that social security benefits were available to all citizens, irrespective of their ability to make contributions, which were covered by employers and the State where employees were unable to pay themselves. Regarding the percentage of the population covered by mandatory social security, the system was regulated by a mandatory social insurance law which was currently being revised, as indeed was all related legislation in the light of the new Constitution. The previous Constitution had established mandatory social security for all workers bound by labour contracts or subordinated to an employer. Social security of that kind was optional for informal-sector workers, and where applicable, was conditional on their being able to make the necessary contributions.

7. In general terms, social security benefits were available to all, irrespective of origin or sex, within the requisite legal framework and about 49 per cent of formal-sector workers currently received coverage.

8. Ms. LÓPEZ DE PENSO (Venezuela), on the subject of land ownership, said a great deal of land in Venezuela was unused. However, as in other democratic countries the principle of land ownership stemmed from social necessity but was subordinated to the fulfilment of legal requirements. Any man or woman who required a plot for cultivation purposes had to submit a project to the Government, which then determined whether or not the land should be allotted to him or her, subject to its legal acquisition from the current proprietor. In short, the State could never assume individual rights but persons submitting projects must ensure that all elements of the law were satisfied. In Venezuela the principle of private property was respected.

9. Mr. DURÁN (Venezuela) said that the figure according to which 40,000 children in Venezuela had been the victims of sexual abuse bore no relation to reality in the country. He referred specifically to the national system of child protection and to the fact that Venezuela had ratified the Convention on the Rights of the Child in 1990. Under the Organic Act on the Protection of Children and Adolescents, enacted in 2000, the rights of all young people were guaranteed. Administrative bodies to enforce those guarantees existed in the form of councils at national and municipal level, 50 per cent of whose members came from State bodies and the remaining 50 per cent from civil society. If such an alarming figure had corresponded to reality, appropriate measures would have been taken by those councils. He asked what the source of the figure was.

10. Mr. MARCHÁN-ROMERO requested clarification on the rationale for the promulgation of the new National Constitution. In the chapter on the rights of indigenous peoples reference was made to fundamental efforts to achieve a balance between respect for those rights and the domestic legislation in place. It was stated that a normative system of reparations was applied in order to achieve that balance. What was the essence of that system?

11. Mr. GRISSA said that the source of the figures relating to child victims of sexual abuse was the 1999 human rights report of the State Department of the United States of America.

12. Ms. LÓPEZ DE PENSO (Venezuela) said that within the domestic normative system of reparations for indigenous peoples, respect for the traditions and customs of such peoples was guaranteed by a council of elders. In a much-publicized case, the Yanomami group had been used as a subject of research by a North American anthropologist. The actual truth of the situation remained to be ascertained, although it was clear that a ceremony had taken place where all the indigenous people concerned had organized cremations after which the ashes had been consumed in secrecy so that the elder of the group could perpetuate the experiences of the deceased.

13. Reparation methods were detailed in the National Constitution and comprised criminal and civil aspects since they were designed to compensate for human and social damage and irreparable harm caused to ecosystems.

14. The CHAIRPERSON invited the delegation of Venezuela to respond to the questions raised regarding articles 11 and 12 of the Covenant (questions 32 to 37).

15. Mr. DURÁN (Venezuela) said that the responses to the list of issues raised contained updated statistics on the distribution of poor households, measured against unsatisfied basic needs. According to the 2000 census, 30 per cent of households lived in poverty and 10 per cent in extreme poverty. The information obtained from the census was regularly updated by household surveys. It was true that a housing shortage existed in Venezuela, although over the past few years the Government had endeavoured to deal with the problem as one of its major priorities. The subject of one of its principal enactments was the availability of loans for workers in the housing sector, and the overall number of such households granted housing credits had more than doubled in the past year, while loans granted by the private sector had increased by 16 per cent. The National Housing Council had also achieved a 2.2 per cent increase in the granting of such credits.

16. The PROINSOL programme had also achieved excellent results as part of a social investment fund. The Inter-American Development Bank (IADB) had also granted a US$ 140 million loan designed to improve housing services and the World Bank had provided financing for the PROMUEVA programme. Since the beginning of 2000 more than 50,000 new housing units had been completed.

17. Turning to question 34 of the list of issues, he said that during the state of emergency declared in December 1999, the Government had undertaken reconstruction as a matter of priority in the State of Bargas. Major investments had been made, which had enabled families to be transferred to other States where they had been provided with food, housing and health care. A social fund established had achieved significant community development, including the temporary employment of affected people. It had been the first time that, in Venezuela, the State had intervened on such a massive scale to resolve a crisis, and as a result the problems of flood victims had been dealt with in a very short space of time. Considerable assistance had also been received from the international community which had made it possible to rebuild the national infrastructure and cater for the basic needs of the victims.

18. Ms. LÓPEZ DE PENSO (Venezuela) said that teenage pregnancies were considered to be a social problem which was a matter for the public health authorities. With the entry into force of the Organic Act on the Protection of Children and Adolescents, young people had become full citizens whose rights were guaranteed by the National Constitution.

19. No tradition of abortion existed in Venezuela, where 80 per cent of the population were Catholic. In social terms, abortion was rejected and was admissible only for therapeutic purposes where the life of a mother or child was in danger. Clandestine abortions were punishable under the Penal Code, though they were likely to go undetected unless, for example, they led to the death of the pregnant woman.

20. The press publicized sexual education programmes provided for children, which helped to raise awareness of illegal abortions and their harmful health and social consequences. Where a mother decided voluntarily to continue with a pregnancy, it was the State's duty to protect the child before it was born even where the mother was a teenager. To that end, health programmes

including gynaecological care and psychological support were in place, since above all it was necessary to protect a mother's situation and make it easier for her to continue her pregnancy, despite the related moral and ethical stigma, and to enable a child to take its place in society.

21. Mr. DURÁN (Venezuela) said that the responses to the list of issues provided up-to-date statistics on maternal and child mortality up to the year 2000. Strenuous efforts had been made by the Government to keep maternal mortality low and to achieve a substantial reduction in infant mortality. In 2000, the figure had stood at less than 20 deaths per 1,000 births and was evidence of a successful child and adolescent health-care policy.

22. Ms. LÓPEZ DE PENSO (Venezuela), responding to question 37 of the list of issues, said that the National Constitution served as a legal basis, since it referred to protection of the environment as an essential right for everyone. Environmental education was therefore a compulsory subject at all levels of the school system. As to oil spills, environmental impact studies were provided for in cases which occurred, attention also being given to their social and cultural aspects. In a well-known case where oil had been spilt from a tanker in Lake Maracaibo, the Public Prosecutor's Office had undertaken an investigation jointly with the Ministry of the Environment, imposed fines on those responsible and instituted measures to restore the previous situation.

23. Similarly, before the current National Constitution had come into force, concessions had existed allowing coal to be mined in certain areas, no account being taken of whether the resources in question were renewable. Since the introduction of the new Constitution, however, respect for the environment had become an important issue inasmuch as the environment was deemed to belong to everyone. Evidence of environmental degradation for personal gain existed throughout the world and, for that reason, the Venezuelan authorities sought to establish protection of the environment as a basic right and duty. The Public Prosecutor's Office was studying the "permissibility" of economic and environmental damage in terms of its impact on ethnic groups. A law relating to environmental crime also existed, categorizing relevant offences and prescribing penalties.

24. Mr. PILLAY noted that according to the delegation of Venezuela only 10 per cent of the population lived in extreme poverty. That figure contrasted sharply with the 1999 United States State Department report which had indicated that 80 per cent of the population lived on or below the poverty line. Likewise, the 1998 report on Health in the Americas issued by the Pan-American Health Organization had asserted that, in 1994, 27 per cent of the population of Venezuela had unsatisfied basic needs and 21 per cent lived in extreme poverty. Had there really been such a dramatic improvement in the situation in the meantime? The information provided was corroborated in the report by FIAN International which noted a qualitative and quantitative decline in the food intake of the population as a result of poverty. FIAN had also cited four cases where there had been an intrusion on the habitat of indigenous peoples, with devastating consequences for their right to food and health care.

25. As to forced evictions, the Committee's General Comment No. 7 stated that forced eviction was "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection". FIAN had also cited a case

of 103 peasant families that had been violently evicted from the land they had occupied for 17 years. Despite the provisions of the law on agrarian reform, the Defender of the People had not acted on behalf of the individuals who had suffered as a result of the eviction. Venezuela had thus breached a provision of the Covenant by failing to comply with the guidelines contained in the Committee's General Comment No. 7, supplying no statistics or information on the flagrant cases of forced eviction.

26. It was stated in paragraphs 201-204 of the second report that the gross housing deficit of 900,000 units had been expected to exceed the million mark by 1998. He wished to know whether the situation had improved or whether, as was more likely, it had further deteriorated. He urged the delegation to reply to his focused and detailed questions in like manner. He also called for a reply to his earlier question as to why, in a recent case, the Supreme Court of Justice had opted to address the peripheral question of environmental laws rather than that of the indigenous peoples' right to food.

27. Mr. RIEDEL complimented the delegation on the well-presented health indicators provided, which clearly showed where the defects lay, although the figures only covered the period up to 1994. The report "Health in the Americas" prepared by the Pan American Health Organization (PAHO) had referred to uncontrolled private-sector growth, with areas previously regulated by the Government being increasingly handed over to the private sector, making for a lower level of health protection. He would welcome the delegation's comments on the Economist Intelligence Unit's assertion that most patients were obliged to pay for medication and that hospitals could refuse treatment unless evidence of ability to pay was provided. What had the Government done since the preparation of the report to improve the health services provided to the most vulnerable groups and least privileged areas? He failed to see how the measures enumerated in paragraph 250, all of which presupposed access, could help the indigenous population, which, as stated in paragraph 249, was widely dispersed and lacked reasonable access to the health-service infrastructure. What measures were in place to improve that situation? Education of small groups living in forest areas could be one useful approach.

28. He asked about the availability of the extremely expensive multiple-drug "cocktail" used in the treatment of HIV/AIDS and whether the authorities had sought international financial support or negotiated reduced prices for drugs with the pharmaceutical corporations. Also, what practical action was being taken to mitigate the catastrophic effects of oil spills on the countryside, especially in highly industrial Maracaibo.

29. Mr. GRISSA, while realizing that pollution posed a major problem for all oil-producing countries, wished to know its real effects on the environment and the health of the population. France had experienced a similar oil spill to the one in Maracaibo and, despite spending millions of dollars, had failed to clear it completely. While Venezuela might prosecute those responsible, it was more important for the Committee to know what practical action was being taken.

30. Mr. THAPALIA said that according to information he had received the average daily calorie intake in Venezuela was constantly falling. He asked for statistics concerning the daily calories consumed by the vulnerable groups and wished to know what the Government was

doing to alleviate the food crisis. Could the delegation inform the Committee of the proportion of people living below the poverty line and of the measures in place to alleviate poverty, especially critical poverty, which had quadrupled during the 1990s?

31. Mr. KOUZNETSOV said that, although he would like the delegation to supply precise figures on the State's health-care expenditure, it was the actual delivery of care that was most important. In any event, public expenditure on health care appeared to be constantly declining as more - and more expensive - services were provided by the private sector. The Committee would see that the Government was fulfilling the pertinent provision of the Covenant if the delegation could declare unconditionally that the Government was increasing its health-care spending. If it could not, he would be grateful for any information it could supply.

32. Mr. CEAUSU pointed out that the share of GDP spent on health had fallen from 5.7 per cent to 1.8 per cent in 1995. It was interesting that 71 per cent of the health-care budget was spent on hospital care, with a mere 12.6 per cent on outpatient services, a situation that could have long-term consequences. In order for the Committee to judge the quality of health care provided, it would be useful to be informed whether rural hospitals and dispensaries were served by doctors other than general practitioners.

33. While the health indicators tabulated in paragraph 222 of the report were obviously out of date, they showed that the infant and maternal mortality rates were alarmingly high, although the former was stated in paragraph 223 to be below the internationally acceptable average. He cautioned against measuring national statistics by such averages, rather than focusing on actual national needs. The reasons for the high maternal mortality rate were understandable, but not acceptable. It was incumbent on the authorities to enhance the level of such services and increase its currently derisory expenditure on outpatient care. He asked the delegation to supply figures on the incidence of new cases of tuberculosis, as opposed to the percentages given in the report.

34. Disturbed at the fact that only 20 per cent of pregnant women received antenatal care and that, for legal reasons, unmarried adolescents received none at all, he enjoined the authorities to ensure that all pregnant women had access to available medical services. He also asked what the government health-care programmes listed in paragraph 250 of the report consisted of and what funds were allocated to its tobacco, alcohol and drug abuse programmes in particular.

35. On the subject of environmental protection, the extent of land pollution by solid wastes was disturbing. While proper disposal was the responsibility of the municipalities, the central Government should intensify its measures - including sanctions - against local authorities that reneged on their duties.

36. Mr. SADI said that two decades earlier Venezuela had had an excellent public health service, which, owing to corruption and shrinking budgets, had reached a state of virtual collapse, in which 60 per cent of the nation's hospitals were in need of repair. Would the delegation corroborate or refute the impression that the situation was deteriorating rather than improving? Also, given the health hazards inherent in the use of leaded petrol, especially to children, did the authorities intend to introduce a policy for the large-scale use of unleaded petrol?

37. Mr. DURÁN (Venezuela) said that, while many of the statistics provided were pre-1999, some were still valid. Some points raised by Committee members referred to the period before 1999, the year in which the Government had taken office; the delegation could only discuss policies established since that time. The information on poverty provided in the report had been obtained by the basic needs method applied in the 1990 census. Replying to questions from Mr. Riedel and Mr. Thapalia, he said the Committee had not requested information on poverty trends; however, the authorities would provide such information on the basis of the household sample data up to 2000.

38. Income statistics were based on income growth and source of income. With help from UNDP, the country had embarked on its Human Development Index, which would be completed later in the year. The authorities were not withholding information; they had simply understood the Committee to have called for updated information. However, they would provide the Committee with all the data at their disposal. With regard to the housing deficit, the Government, through the National Housing Council, was in the process of large-scale house construction. An urban development fund had recently been created and housing and services had greatly improved.

39. Ms. FRANCIA (Venezuela) said that poverty in Venezuela was part of the increasingly high level of poverty worldwide, a sign of the world economic system's failure to eliminate that evil. The situation in Venezuela was critical. The previous legislation had displayed many shortcomings, and the current Government had initially concentrated on the social dimension.

40. The new Constitution was strong on social content and reflected current realities and needs. Venezuela recognized various levels of poverty: the bottom levels were "appalling" and "extreme" poverty, covering people who lived in totally unacceptable conditions. The situation was very difficult to resolve, but the Government was making every effort to alleviate it. Venezuela's social policy reflected a vision of social security and aimed at improving Venezuelans' living standards. The Government had applied to international organizations for technical cooperation in that area.

41. Mr. DURÁN (Venezuela), replying to questions from Committee members regarding social and health expenditure, said that the data provided in the report were for the period up to 1998. Up-to-date official statistics on social expenditure would be sent to the Committee. Health expenditure had indeed declined up to 1998, but the 1999 budget reform had made it possible to increase expenditure on education and, in particular, health. Funds earmarked for health had increased still further in the 2000/2001 budget.

42. Until recently, there had been a serious problem of institutions beginning to introduce fees for health care. In 2000, however, programmes had been put in place to guarantee free health care. They were funded out of the regular budgets of the Ministry of Health and Social Development and the Venezuelan Social Security Administration. Similarly, medicines were now distributed free to the poorest sectors through a special programme.

43. A significant percentage of the health sector had been decentralized to the states, which administered hospitals and outpatient clinics, for example. The Ministry of Health and Social Development was responsible for overall health policy.

44. In general, although not all the problems had been resolved, there had been a reversal of former health policies. As a result of the budget increases, for example, the growth of the private health sector had been halted.

45. The statistics on outpatient clinics in the report needed adjusting, because when the system had started the population had been 20 per cent urban and 80 per cent rural, whereas it was currently the other way round. Some of the "rural" clinics were in what had become peri-urban areas.

46. In 2000, Venezuela had introduced an integrated care system designed to cater not merely for children or mothers but for whole families. The Ministry of Health and Social Development had also launched a sexual and reproductive health programme that was more comprehensive than the previous mother-child health-care programme and made it possible to care for pregnant women - both before and after the birth - and to monitor healthy children and the family as a whole. The aim of the programme was to reduce teenage pregnancies and maternal and infant mortality. Community health education had been introduced for mothers and families and in some cases was run by mothers. That had reduced infant mortality and was having some impact on teenage pregnancies. Moreover, maternal mortality rates for the first quarter of 2001 had been reduced to 17 per thousand registered live births.

47. It was not true that pregnant teenagers had no access to health care for legal reasons.

48. Lastly, it was the policy of the Ministry of Energy and Mining to begin introducing unleaded petrol as part of the Government's commitment to the well-being of the environment.

49. Ms. LÓPEZ DE PENSO (Venezuela) said the Government viewed the environment from a worldwide rather than a merely national perspective and, through the Ministry of the Environment, took a basically preventive approach to reducing environmental hazards. One example was the patrolling of waters at risk of pollution by the National Customs Service, which was a branch of the National Guard. One aspect of that programme was the imposition of preventive measures in the area of oil transport, including pipelines and tankers, in order to avoid polluting sensitive areas. In the event of non-compliance with the regulations, penalties ranged from heavy fines to seizure of a ship.

50. The oil spill in Lake Maracaibo had been fully and adequately dealt with by the environmental authorities. She pointed out that no new penalties, even of an administrative nature, could be imposed without a basis in law, even when the aim was to rectify environmental damage or improve the environment.

51. Mr. SALTRON (Venezuela), replying to a question regarding allegations that the Government had evicted peasants from their land, said the Office of the Defender of the People had branches in all states and there had been no reports of such government evictions since the Office had been established. There had been similar reports of thousands of cases of sexual abuse or of extrajudicial killings: such allegations were exaggerated and were not acceptable. The only evictions that had taken place were of persons engaged in illegal mining in Bolivar State.

52. The CHAIRPERSON invited comments from Committee members on items 38 to 41 of the list of issues.

53. Mr. MALINVERNI noted that, according to information received, 50 per cent of the resources allocated to education went to higher and university-level education and 50 per cent to the primary and secondary levels. If that was true, he wondered whether it would not be better to prioritize the primary and secondary sectors. According to some sources, a series of strikes had meant that pupils had been able to attend school on only 90 out of the 180 school days in 1999/2000. Was that correct?

54. Lastly, he asked whether it was true that there were plans to privatize schooling and introduce a fee-paying system.

55. Mr. HUNT asked whether a Venezuelan education-for-all plan, as outlined in the Dakar Framework for Action was either envisaged or in preparation. If so, would the plan reflect articles 13 and 14 of the Covenant, and how would it be monitored? Had Venezuela considered accepting UNESCO's offer to provide technical advice and assistance in the formulation or implementation of its Dakar plan.

56. Mr. MARTYNOV requested further information on the introduction of compulsory elementary education for people living in remote regions and indigenous people. What was the rate of school attendance among such people and what was the Government doing to improve the situation? What was the Government doing to develop bilingual education for indigenous people?

57. Mr. MARCHÁN-ROMERO was also interested in the progress made on bilingual education for indigenous people. How many children, and in what populations, were now benefiting? He enquired about the state of progress of the organic law on indigenous people and how far it would conform with the ILO Convention.

58. Mr. TEXIER asked whether pre-military instruction in colleges, which had been the subject of protests by non-governmental organizations, was still mandatory and whether, under the new Constitution, young people could choose between military and social service. There had also been much criticism of a manual of pre-military instruction which incited hatred and promoted views contrary to the international conventions ratified by Venezuela. Was that manual still used in colleges?

59. Mr. SADI wanted to know what plans Venezuela had regarding the right to education and whether it intended to incorporate the jurisprudence of the Committee in the State party report.

60. Ms. BARAHONA-REIRA, referring to the second article of the Constitution, dealing with private education, asked about the methods used for regulating private education and whether a distinction was made between the supervision of the private and public sectors.

61. Ms. HANSON (Venezuela), replying to questions put by members of the Committee, said that the Government had halted the neo-liberal policy of redirecting resources from higher

education to other levels of the system, in favour of a steady rise in the overall educational budget. The information that higher education accounted for 50 per cent of the budget was inaccurate. In fact, 30 per cent went to the universities and 70 per cent to the rest of the education system. The Government was also allocating extrabudgetary funds to education in addition to increasing the regular budget. The Constitution provided for 200 days of classes per year and the Government had drawn up plans accordingly, which had been opposed by the teaching unions. Nevertheless, support among teachers for strike action had shown a marked decline and the goal of 200 days had in fact already been achieved.

62. With regard to the trend towards privatization in education, currently 80 per cent of education establishments were in the State sector and 20 per cent in the private sector. The same relative percentages of the population attended State schools and private schools respectively. The enrolment fee, or parental contribution, which had been made compulsory, had since been abolished in accordance with the right to free compulsory State schooling embodied in the Constitution. Any person found guilty of denying access to schooling to a child would be penalized by a fine equivalent to 6 months' income. The aim of the Government was to reverse the trend towards the privatization of schools and universities. Some head teachers, who had refused to abandon the enrolment fee, had been temporarily suspended.

63. Regarding the supervision of schools, the State had delegated its duty to supervise both the State and the private sector to the Ministry of Education. Various measures were in place to increase the number of inspectors available with a view to making quality education accessible to all. Better supervision was one of the two main pillars of the Government's policy to improve the quality of education. The other was teacher training, and various programmes and plans had been set up in that area. The Government had drawn up a plan to improve the quality and extend the coverage of education for excluded populations and launched flagship programmes at different levels of the education system to promote their integration.

64. Regarding technical cooperation, Venezuela had been in touch with UNESCO and other multilateral organizations. The country would appreciate assistance from any source in its efforts to provide better quality education and good educational materials.

65. Turning to the questions raised about indigenous children, she made no secret of the fact that only 34 per cent of indigenous communities had schools and that 55.6 per cent of persons between the ages of 5 and 24 did not attend any type of school. The Government was well aware of the problem and was working towards a solution by means of various schemes covering all levels from pre-school to the sixth grade and focusing on the most vulnerable groups, including those living in frontier and rural areas. The re-establishment of the directorate for indigenous education, headed by a member of an indigenous group, to oversee bilingual multicultural education had been well received.

66. Regarding compulsory military service, plans to exempt some sections of the population had been temporarily suspended pending a review of the situation in the light of the more humanistic approach of the current Government. The manual to which Mr. Texier had referred

was the result of an individual initiative and was not authorized by the Government; a circular to that effect had been sent to schools. In the interest of intellectual freedom, the Government did not wish to ban or censor the manual.

67. Replying to a question by Mr. Hunt, she said that the Government had incorporated the guidelines of international organizations and international treaties and resolutions into the basic national curriculum and extracurricular activities.

68. Mr. MARCHÁN-ROMERO enquired whether the Government had plans to introduce members of the armed forces to the substance of the Covenant.

69. Ms. HANSON (Venezuela) replied that military academies in Venezuela ran a programme as part of their regular curriculum on human rights in general and certain rights in particular. Similar courses for members of the armed forces would to be broadened to cover topics of a more general cultural nature.

70. Mr. TIMANRY (Venezuela) said that units concerned with human rights had been set up in the armed forces and in other government bodies, reflecting the importance the Government attached to human rights.

71. Mr. DURÁN (Venezuela) thanked members of the Committee for the information they had provided and for their consideration of the second periodic report of Venezuela. The delegation had attended the session voluntarily because they felt that their participation would be very beneficial. Venezuela would continue to participate in, contribute to and support such events.

72. The transformation the country had been undergoing since 1999 was peaceful and democratic. The new Constitution was fundamentally social, largely guaranteeing human, economic, political, social and cultural rights. Several chapters of the Constitution were identical with many articles of the International Covenant on Economic, Social and Cultural Rights, including the articles under review. Venezuelans felt well protected by the State in virtue of the Constitution, which enjoyed broad popular support.

73. In less than two years since taking office, the Government had introduced programmes focusing on "social reconciliation" and "international equilibrium". The economy was already showing significant signs of improvement including low inflation which would have a beneficial knock-on effect on social conditions. In education, everything possible was being done to bring about improvements and guarantee access to schooling for all. Education was free, as was health care, and health indicators had also improved. In the same brief period, the Government had also had to deal with the aftermath of the unprecedented natural disaster at the end of 1999, using its own resources and with international assistance.

74. Venezuela would continue to participate in the work of the Committee and of all international bodies it considered important. The delegation would welcome comments and

recommendations from the Committee and hoped that in the short to medium term the quality of life in Venezuela would be enhanced and the Covenant on Economic, Social and Cultural Rights fully implemented.

75. The CHAIRPERSON said that the concluding observations of the Committee would be made known to the delegation on the last day of the current session. She hoped that the constructive and positive relationship with Venezuela would continue.

76. The delegation of Venezuela withdrew.

The meeting rose at 12.50 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 6th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 25 April 2001, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Honduras

* No summary record was prepared for the first part (closed) of the meeting.

This record is subject to correction.

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Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.01-41453 (E) 200601 270601

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Honduras [(E/1990/5/Add.40); core document (HRI/CORE/1/Add.96); list of issues (E/C.12/Q/HON/1); country report (E/C.12/CA/HON/1); written replies to the list of issues prepared by the Government of Honduras (document without a reference number)]

1. At the invitation of the Chairperson, the members of the delegation of Honduras took places at the Committee table.

2. The CHAIRPERSON welcomed the delegation on behalf of the Committee and gave the floor to the Permanent Representative of Honduras.

3. Ms. RIVERA RAMIREZ (Honduras) said that in spite of the major task of reconstruction which her country had had to shoulder since Hurricane Mitch, the Government had made a special effort to put together a high-level delegation able to paint a reliable picture of the state of the country. She thanked the Committee for enabling her delegation to provide some useful clarifications on a number of issues concerning her country's economic, social and cultural development.

4. The CHAIRPERSON invited the head of the delegation to make his introductory statement. She apologized for the fact that the written replies to the list of issues were not available in the Committee's usual working languages, because they had been received too late by the Secretariat. She was concerned that might affect the quality of the dialogue with the delegation.

5. Mr. MEDINA (Honduras) said that, while he was sorry that the written replies by Honduras had not been translated, he was convinced that the live interplay of question and answer between the Committee and the delegation would make up for that shortcoming. He assured the Committee that his country was firmly committed to complying faithfully and strictly with the obligations assumed under United Nations international instruments. It was undeniable that the economic, social and cultural rights of the people were still being violated, but the Government was making enormous efforts to put an end to that situation. In any event, a number of reports by United Nations bodies showed that the number of cases of torture and forced disappearance was declining, that street children were receiving proper protection, that an Institute for Children and the Family (IHNFA) had been set up and that all children who had been deprived of their freedom and imprisoned along with adults had been compensated. Honduras was firmly resolved not to make such mistakes again.

6. He recalled that in 1998 his country had been hit by Hurricane Mitch, which had destroyed much of its economic and social infrastructure, including roads, schools and health centres. However, the Government of Honduras was aware that the disaster must not be taken as an excuse, and that it had a duty towards the people to secure respect for all human rights. In that light, steps had been taken in the fields of education, justice, culture and health in order to meet the challenges of the new millennium. The Covenant had been disseminated nationally, and those responsible for securing its application were to receive training. Legal instruments on non-discrimination had been promulgated, and Congress had recently adopted a law on equal opportunities for men and women.

7. The CHAIRPERSON invited the delegation to expand on the information supplied in the written replies to questions 1 to 9 of the list of issues (E/C.12/Q/HON/1).

8. Mr. AGUILAR ROBLES (Honduras), replying to question 1, on the place of international instruments in Honduran law, said his country recognized the supremacy of international over domestic law. The international instruments signed by Honduras were immediately published in the Official Journal, and once they had entered into force they were an integral part of domestic law. They could therefore be invoked by any natural or legal person before the courts of the Republic.

9. Ms. BÚ FIGUEROA (Honduras), replying to question 2, on the elaboration of an optional protocol to the Covenant, said her Government believed the recommendation by the World Conference on Human Rights was relevant. It was convinced that the adoption of such a protocol would facilitate the implementation of the Covenant's provisions. Turning to the modernization of public institutions, she said that a presidential commission had been appointed for that purpose, and was also responsible for identifying and mobilizing the necessary resources to modernize the entire State apparatus. A number of measures had already been taken for that purpose, including the adoption of a new tax law to help the worst-off sections of society. Similarly, four institutions deemed to be valueless had been scrapped, and a real process of decentralization had been started. In order to facilitate international trade, customs law and customs tariffs had been rationalized in line with the standards of the World Trade Organization (WTO). A free trade agreement had been signed with Guatemala and El Salvador, and negotiations were under way for a similar treaty with Chile and Colombia.

10. Mr. MEDINA (Honduras), replying to question 4 on the main obstacles encountered by his Government in its efforts to implement fully the rights recognized in the Covenant, explained that all of them related to the absence of measures to familiarize people with the Covenant, training programmes for law enforcement officials and the authorities in general, awareness-raising campaigns about the Covenant's provisions and a comprehensive plan on the subject.

11. Ms. BÚ FIGUEROA (Honduras), replying to question 5, on the destruction wrought by Hurricane Mitch, said it had had a devastating impact on most of the country's infrastructure. Following the disaster, a master plan for reconstruction had been devised, accompanied by measures to combat poverty. Increasing the budgets for education, health, nutrition, culture and

housing was the first of those measures. It was important to emphasize that the plan was administered by the Government's Modernization Office, which was directly answerable to the President of the Republic.

12. Mr. AGUILAR ROBLES (Honduras), replying to question 6, on the role of non-governmental organizations (NGOs) in the preparation of the initial report of Honduras, said the Government had in fact invited non-governmental human rights organizations to take part in compiling the report. For that purpose, the Government had set up an inter-agency committee comprising representatives of the State and certain NGOs. Mention must be made in that respect of the valuable contribution made by CIPRODEH (the Centre for Human Rights Research and Promotion), the "Consultorio Jurídico Popular" (a legal aid service for the poorest) and the NGO "Andar". It should be noted that NGOs had also been invited to take part in drafting the replies to the list of issues.

13. Mr. MEDINA (Honduras), replying to the question about the meaning and scope of the term "diputados propietarios" (question 7), said the term referred to full members of Congress, 128 in all, as opposed to their alternates. The figure might shortly rise, because the country's population was now close to 6 million. Improvements had been made in the method of electing representatives of the people. In future, members of Congress, the President of the Republic and local representatives would be elected separately, using separate ballot papers. Consideration was also being given to the possibility of holding constituency-based legislative elections, which would encourage local participation and enable voters to know their member of parliament better.

14. He added that the public prosecutor, through the services of special procurators (fiscalías especiales), had introduced mechanisms for disseminating information and publicity about the rights enshrined in the Covenant. However, it was necessary to organize more systematic awareness-raising among the public about the provisions of the Covenant.

15. The CHAIRPERSON invited members of the Committee to put their questions on section I of the list of issues (General information).

16. Mr. RIEDEL asked if the Honduran delegation could point to any specific instances in which individuals had invoked the Covenant before a court or other competent authority. Was there any case law on the question and were judges made familiar with it?

17. Mr. SADI observed that Honduras had ratified the International Covenant on Economic, Social and Cultural Rights well before the International Covenant on Civil and Political Rights. Did that mean that, according to Honduras, economic, social and cultural rights should be achieved ahead of civil and political rights? What role had the International Covenant on Economic, Social and Cultural Rights played in Honduras?

18. He was surprised that the Honduran authorities had not done more to familiarize the public with the Covenant, given that they had ratified it 20 years previously, and apparently

attached great importance to the international human rights instruments. As for Hurricane Mitch, he would like to know the delegation's opinion about the possible role of deforestation in Latin America generally in the occurrence of natural disasters of such magnitude.

19. Mr. MARCHAN ROMERO asked for details of the services of the special procurators mentioned in the written replies, especially those responsible for protecting the human rights of women, children and ethnic groups. Were there any others? Were those services independent, or part of the executive? How long had they been operating? What role had they played in the progressive achievement of economic, social and cultural rights?

20. Finally, in his opinion, Honduras was right to pursue its efforts to achieve the rights enshrined in the Covenant, in spite of the consequences of Hurricane Mitch. The determination of the authorities in that respect should be heightened by the threat posed to economic, social and cultural rights as a result of the disaster.

21. Mr. PILLAY observed that the Honduran Constitution guaranteed a large number of economic, social and cultural rights. However, according to some sources the judges did not ensure they were respected, as none of them were specialists in constitutional law. What was the actual situation? In order to apply the rights laid down in the Constitution and in the Covenant, judges must be both properly trained and independent. Were those sources correct in claiming that the courts were under political control?

22. Mr. TEXIER welcomed the interest shown by Honduras in implementing the Covenant, even if its interest seemed to be relatively recent, in view of the fact that its initial report should have been submitted in 1983. He would like further information about the office of the national human rights commissioner. Was that office equivalent to the people's advocate or procurator for human rights, as found in other Latin American countries, or was it more in the nature of a national commission on human rights?

23. Finally, concerning article 1 of the Covenant, he wondered what control was exercised by the State over the exploitation of the gold mines by foreign companies. The delegation should bear in mind that questions would be asked about the impact of the mining operations on the achievement of economic, social and cultural rights.

24. Mr. HUNT noted that the interim Poverty Reduction Strategy Paper prepared by Honduras in order to benefit from the Heavily Indebted Poor Countries initiative (HIPC) hardly mentioned economic, social and cultural rights. Why was that? Did the Covenant have any role to play in the preparation and implementation of poverty reduction strategies?

25. Mr. KOUZNETSOV found it surprising that Honduras had not ratified any of the ILO conventions on social protection, although it was a party to the Covenant, an important aspect of which was the protection of social rights. He recalled that in 1990 the Committee had adopted General Comment No. 3, pointing out that every State party to the Covenant had a fundamental minimum obligation at least to ensure that all the rights laid down in it were satisfied. He wondered whether one should conclude that Honduras did not intend to comply with its obligations in the area of social rights.

26. Mr. MALINVERNI asked the Honduran delegation to provide details of the actual impact of national jurisprudence on the enjoyment of economic and social rights, and specifically on the laws aimed at implementing the Covenant and those which had been revised or amended to bring their provisions into line with those of the Covenant. The delegation was saying that international law took priority over internal law, and that all citizens could complain to the courts of a violation of the Covenant provisions, and claim compensation. Had any of the poorest citizens actually gone to the courts for that purpose? What did justice cost in Honduras, in other words, what did the services of a lawyer cost and how did legal aid operate? Was there any institution such as a people's advocate to help the poorest people to assert their rights in court, and specifically the rights guaranteed by the Covenant?

27. Mr. GRISSA said he thought Honduras had already been experiencing problems, well before Hurricane Mitch, with regard to respect for economic, social and cultural rights, and the rights of minorities. It was therefore pointless to mention the disastrous economic consequences of the hurricane as an excuse for not applying the Covenant's provisions. It would, however, be desirable to have some details of the legal arrangements for applying its provisions.

28. Mr. AHMED said that what Hondurans wanted was a humane Government which attached importance to human rights and to the rights enshrined in the Covenant. What had been the use of the moral revolution launched by President Reina if the displacement of people working in the mines and their families had continued? Was the idea to open the way for foreign mining companies? There was still resistance among the indigenous peoples to allotting coastal areas on their territories to foreign investors, and the rights of women in the assembly plants (maquiladoras) were still being violated. What the Committee wanted in the case of Honduras was a genuine moral revolution extended to all, to ensure compliance with the commitments assumed by the country on signing the Covenant.

29. The CHAIRPERSON invited the delegation of Honduras to reply to questions 10 and 11 in the list of issues.

30. Mr. MEDINA (Honduras) replied that the Constitution of Honduras enshrined the principle of "equal pay for equal work" and that the policy of equal pay applied to the whole population, both urban and rural, in both the public and the private sectors. However, it was sometimes possible to evade the law, especially in rural areas where workers were uneducated and unaware of their employment rights, and hence more easily exploited and vulnerable.

31. Ms. PINEDA (Honduras) explained that the Honduran Family Code guaranteed equal rights for men and women. Honduran women had the right to leave their country, to purchase or sell property, to contract, to take out mortgages and to inherit. The State had been pursuing a policy of promoting equality between the sexes, and many laws had been adopted in favour of women, including those in the agricultural sector. A National Institute for Women and a Legislative Commission on Women had been set up. The office of the public prosecutor had a special unit for the defence of women's rights.

32. Mr. MALINVERNI said he would like some statistics on the number of indigenous people who were employed in public institutions, and those who were members of the Government or Parliament. According to some sources, in Honduras women's pay was less than half that of men, mainly because they were employed in menial jobs. Could the delegation comment on that?

33. Mr. PILLAY said that, according to a 1997 UNDP report, Honduran women earned half as much as men for the same work, in spite of the requirements of the Honduran Constitution. That was apparently due to women's ignorance of their rights. What steps was the Government taking to inform the public of their rights and thus to ensure respect for the law and for the Honduran Constitution? Were there any women's rights organizations?

34. Mr. TEXIER said he was puzzled by the contradictory information in the report on the question of equality between the sexes. Paragraph 31 of the report stated that the Constitution had established the principle of "equal pay for equal work", but according to paragraph 32, women employed in the assembly plants (maquiladoras) worked "long hours without due remuneration" and did "not enjoy the labour conditions required by law", the result being "over-exploitation of female labour". In that case, why was the Government encouraging such plants to operate, if it knew that the labour rights of women were being systematically violated? In Latin America and Central America, the very name of those plants stood for violations of trade union rights, inequality between women and men and non-compliance with social legislation. Surely the maquiladora employers should be required to respect social laws and trade union rights, and to pay women the wages due to them? He noted that the Honduran Government had taken steps to punish such actions, but it must go further. Apparently, a new draft labour code was under consideration. Had it yet been adopted, and in what sense did it represent progress?

35. Mr. THALAPIA pointed out that in the report, the State party admitted that the country had "three categories of discrimination: (1) laws which discriminate de facto; (2) discrimination in violation of the law; and (3) discrimination as a result of legal vacuums with regard to women" (para. 9). Apparently, the law was not enforced in Honduras, especially in the matter of employment rights. Although the report stated that the Government of Honduras was implementing a policy of supporting the maquiladoras "in order to alleviate poverty, create jobs and earn foreign exchange", it appeared that the rights of women were consistently flouted when they worked in such plants. He would welcome some statistics on the career paths of women in the maquiladoras, equal pay and violence, and would like to know what steps had been taken to eliminate discrimination against women, the disabled, indigenous people and refugees.

36. Ms. BARAHONA RIERA pointed out that Honduras was a party to the main international instruments for the prevention, punishment and elimination of violence against women, and in that light had undertaken to reform its institutions in order to protect the rights of that population group. She asked whether programmes had been put in place to raise popular awareness of those issues. Additionally, in view of the alarming figures for violence against children, were there any educational programmes designed for pupils in primary and secondary schools? If victims of family violence lodged official complaints, did they receive protection?

Fear of reprisals was often a factor in deterring them from complaining. With regard to equality between men and women, she would like to know if there were any sanctions against enterprises, especially assembly plants (maquiladoras) which failed to respect the principle of "equal pay for equal work". If not, did the new draft Labour Code provide for such sanctions?

37. Given that the 1991 Farming Sector Modernization Act placed men and women on an equal footing in terms of access to land and property, she would like to know if the signature of both partners was required when joint property from the marriage was sold, or if one signature only was enough.

38. Mr. CEAUSU pointed out that in Honduras, ethnic groups represented between 8 and 10 per cent of the total population, or around half a million people, living in very remote areas where access to social services was difficult. He asked the Honduran delegation to give specific examples of the Government's policy "to give priority to such groups in the context of community-oriented initiatives", mentioned in the core document (HRI/CORE/1/Add.96).

39. Finally, concerning the status of non-nationals, he asked whether aliens living in Honduras enjoyed economic, social and cultural rights, and whether there were any limits on the exercise of those rights.

40. Mr. MEDINA (Honduras) replied that the special procurators (fiscalías especiales) had been set up within the public prosecutor's office in December 1992, and had become operational in June 1993. Their responsibility was to ensure respect for human rights in general, and especially for economic, social and cultural rights, and the rights of minorities, women, children, and elderly and disabled persons, among others. In spite of the efforts of the Government of Honduras, he had to admit that the Covenant had never been invoked by individuals in domestic courts. The Government had also set up a special procurator's office for the purpose of monitoring compliance with the Constitution. With the establishment of such services within the office of the public prosecutor, the Government believed it had equipped the country with a system capable of ensuring that the law would be applied. The judicial system was strengthened by it. In fact the prosecutor's office, as part of the struggle against the culture of impunity in Honduras, had for the first time in the country's history instituted proceedings against former politicians, members of the Government party and of the military, and business leaders for alleged violations of human rights.

41. He also explained that Honduras had ratified the International Covenant on Economic, Social and Cultural Rights before the International Covenant on Civil and Political Rights, but that the Government genuinely intended to attribute the same importance to both instruments with regard to the universality, indivisibility and interdependence of all the rights enshrined in them.

42. He disputed the allegation that judges did not ensure respect for economic, social and cultural rights because they were not specialists in constitutional law. When a judge took the oath of office, he or she undertook to secure respect for the Constitution and laws of Honduras,

and no breach of that obligation could be justified by ignorance of a particular branch of the law. The judiciary was not subject to any political influence, and neither was the National Human Rights Commission, which acted altogether independently. The Commissioner could in fact be seen as the equivalent of a people's advocate.

43. Finally, concerning the consequences of mining for the achievement of economic, social and cultural rights, it should be pointed out that a unit of the special procurator's office with responsibility for the environment had ordered criminal penalties against mining enterprises whose activities had deleterious effects on the environment, and also against officials who had issued mining permits without calling for an environmental impact study beforehand.

The meeting rose at 6 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 26 April 2001, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Honduras (continued)

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GE.01-41504 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Honduras (E/1990/5/Add.40; E/C.12/Q/HON/1; written replies to the list of issues prepared by the Government of Honduras (document without a reference number); HRI/CORE/1/Add.96) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Honduras resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Honduras to give their answers to the outstanding questions from the previous meeting.

3. Mr. CARIAS (Honduras), responding to a question from Mr. Hunt, said that the Government's interim Poverty Reduction Strategy Paper (PRSP) did not invoke the Covenant but its content was compatible with the spirit of the Covenant. The PRSP was based on an analysis of poverty and of its causes and effects in the specific context of Honduras. It set clear goals, particularly in health, education and housing, and had been prepared with the help of civil society, government agencies and international cooperation.

4. Mr. PONCE TURCIOS (Honduras), responding to a question from Mr. Kuznetsov, said that Honduras had ratified 22 International Labour Organization (ILO) conventions. A number of them, such as Convention No. 102 on Minimum Standards of Social Security, dealt with social protection measures. Convention No. 182 on the Worst Forms of Child Labour was currently before Congress, pending ratification.

5. Ms. ORTEGA (Honduras), responding to various questions from Mr. Tapalia, said that Honduras had ratified the Convention on the Elimination of All Forms of Discrimination against Women and was making efforts to modify its legislation on women's rights. A law on domestic violence had been enacted, for example.

6. The Department of Health was developing projects on women's health and reproductive health nationwide.

7. Education and employment had been identified as priority areas for promoting non-discrimination against women and legislation on equal opportunities for women had been enacted.

8. With regard to the rights of disabled persons, the current Labour Code obliged companies to employ a certain percentage of disabled workers. Programmes for disabled children were being developed by the Honduran Institute for Children and the Family, and the Special Office for Children and the Disabled was available to help disabled persons to assert their rights.

9. Ms. OLMEDA (Honduras), answering a question from Mr. Malinverni, said that case law had had a great impact on the monitoring of economic, social and cultural rights because the Covenant itself had such a broad scope. Any individual could seek redress in the courts and many did so. The rights set forth in the Covenant could be invoked by individuals in court.

10. Free legal aid by public defenders was provided to all who needed it and there were also free legal advice centres, usually connected to universities. A number of charitable non-governmental organizations (NGOs) also provided legal assistance. The public was, however, not always aware of the existence of such institutions.

11. The Ombudsman received and examined allegations of violations of rights and the new National Human Rights Commission helped to defend individuals' rights.

12. Ms. PINEDA (Honduras), answering a question from Mr. Grissa, said that the legal framework for the protection of human rights included the National Human Rights Commission, the Office of the Ombudsman and the Special Office for Human Rights. There were also two strong NGOs that monitored human rights: the Committee for the Defence of Human Rights in Honduras (CODEH) and the Committee of Relatives of the Disappeared in Honduras (COFADEH).

13. In 1996 a new juvenile justice system had been introduced, including oral hearings held in private and without delay, thereby ensuring due process for young persons accused of offences. Similarly, in 2002, a new Code of Criminal Procedure was to come into force, also guaranteeing due process through oral hearings and prompt, transparent proceedings.

14. Mr. PONCE TURCIOS (Honduras), responding to questions from Mr. Pillay, said that he had never heard of any group working for 50 per cent of the minimum wage. The law was the law and was not subject to the whim of the employer. He wondered what the source of the allegation was.

15. Women had access to a number of public and private bodies to obtain help in asserting their rights, including the National Human Rights Commission, the Public Prosecutor's Office and a number of special offices.

16. In response to a question from Mr. Texier, concerning an apparent contradiction in paragraph 32 of the report, he said the situation was difficult to rectify since the Ministry of Labour, which was responsible for monitoring working conditions, simply did not have enough inspectors. At the same time, the maquila (assembly and finishing) sector was vital to Honduras's economy, employing around 1.2 million people, which, in a context of total unemployment and underemployment of around 28 per cent, was a significant figure. Maquiladoras were inspected if complaints were made and appropriate action had been taken in cases where violations of labour rights had been discovered. A number of companies, notably Korean ones, had been unable to rectify the situation and had been obliged to leave the country. However, there were of course other maquiladoras that had due respect for labour rights.

17. NGOs helped by reporting violations. However, false reports also came in from professional "informers" who did not work in the maquila sector themselves but received a fee for filing such complaints.

18. Lastly, he recognized that a review of social policy was needed insofar as unions tended to tolerate sexual harassment and ill-treatment.

19. Ms. PINEDA (Honduras), responding to a question from Ms. Barahona-Riera, said that, under the Domestic Violence Act of 1997, victims of either sex could bring a complaint before special courts. If the relationship was a consensual union, the guilty party could be expelled from the home for a period of up to 60 days. The Honduran Institute for Children and Family had shelters for women victims, which provided training and child care.

20. If a property was purchased jointly by a couple, it could be sold only jointly. If only one member of a couple owned the property, that person was entitled to sell it, unless there were children in the family also living in the property. In case of divorce, property was divided equally between the parties.

21. Ms. OLMEDA (Honduras), replying to a question from Mr. Ceausu, said that under the Constitution foreigners had the same rights and obligations as Hondurans, with two exceptions: they could not vote in elections; and nationals of neighbouring countries were not permitted to purchase property across the border, inside those countries.

22. Mr. EUCEDA (Honduras), also replying to a question from Mr. Ceausu, said that systematic legislative efforts were being made to support indigenous ethnic groups. For the first time, school textbooks were being produced in indigenous groups' own languages, for example, and training programmes prioritized ethnic groups' own values. The "Raíces" programme was explicitly aimed at meeting the needs of ethnic groups, with a view particularly to combating poverty.

23. In reply to a question from Mr. Ahmed, he said that the current Government recognized that there were problems in the country, but it had made substantial advances in education and health despite the steep increase in the population. Efforts were being made particularly in primary education, for example by depoliticizing the selection criteria for teaching posts in that sector. A second and third stage would naturally be needed in order to put an end to the bad practices that had hampered administrations in the past. His Government had accepted the challenge, however, and progress had been made in improving the quality of services to the population and, in particular, those most in need.

24. Mr. HUNT, following up his previous question on anti-poverty strategies, said Honduras's interim Poverty Reduction Strategy Paper (PRSP) was extremely thorough, professional and comprehensive. It was, however, for the most part silent on human rights. The Heavily Indebted Poor Countries initiative (HIPC) required PRSPs to be approved by the World Bank and the International Monetary Fund (IMF) before a country could be eligible for debt relief. Under such circumstances, it was natural to wish to propose a PRSP that was

attractive to the country's creditors. Indeed, in a recent report to the United Nations Commission on Human Rights, the independent expert Mr. Fantu Cheru had described PRSPs as "a new form of structural adjustment" (E/CN.4/2001/56, para. 21).

25. He himself was concerned for the interests of the poor, as opposed to the interests of a country's creditors. That concern had been brought to the fore by a passage in Honduras's interim PRSP stating that, in the long term, structural adjustment measures should have positive effects on growth and poverty reduction, but in the short term could have negative effects on vulnerable sectors. The interim PRSP did not evaluate the effects on poverty, but indicated that the final report would do so.

26. The delegation had replied earlier by saying the PRSP was compatible with the Covenant. However, his question was really whether explicit consideration of the Covenant could reinforce the final PRSP and make its contents a more effective anti-poverty strategy.

27. Mr. CARÍAS (Honduras) said the strategy in the paper referred to by Mr. Hunt involved some risk but its aims were clear. If those aims were to be achieved, the strategy needed to be translated into an operational plan involving all development partners and taking into account the requirements of the HIPC initiative from which Honduras was hoping to benefit. In order to enhance the long-term viability of the strategy, efforts had been made to involve the political parties that would be contesting the next election.

28. The CHAIRPERSON invited Committee members to make comments on items 12-23 in the list of issues.

29. Mr. AHMED asked how many foreign banana companies were operating in Honduras, what percentage of the land they exploited, how they had acquired titles to the land in the first place and whether those land titles were legal. Noting that one of those companies was planning to introduce new labour-saving technology, he asked whether the Labour Code allowed companies to lay off workers at will.

30. Mr. MARTYNOV asked if the Government had any plans to extend the coverage of the social security system, which currently favoured high-income workers and covered less than a third of the population, and to make social insurance compulsory for domestic workers, casual workers and others not covered. He also asked for an estimate of the number of working children aged between 14 and 18.

31. Mr. TEXIER sought clarification on the figures on unemployment. According to secretariat documents, the International Labour Office gave figures of 3.2 per cent for open unemployment and 23.4 per cent for underemployment in 1997, while unofficial sources put the figure as high as 40 per cent in 1999. Like Mr. Ahmed, he was concerned about lay-offs and job-losses resulting from decisions taken abroad and the introduction of new technology, and he asked what the Government could do when multinationals took decisions that affected employment in Honduras. With regard to article 7 of the Covenant, he asked for details of how the minimum wage was set.

32. The use of pesticides on banana plantations and cyanide contamination near mines posed unacceptable health risks to the local population. How did the Government propose to ensure that foreign companies exploiting the country's resources complied with Honduran legislation and did not pollute the environment, or, when they did cause pollution, paid adequate compensation?

33. There were a number of problems in the area of trade union rights; for example, the firm Chiquita, according to a report by the International Confederation of Free Trade Unions, had laid off 5,000 workers in the wake of Hurricane Mitch and had threatened to withdraw from the country altogether if their union did not give up a number of workers' rights. The ILO had pointed out that the Labour Code permitted only one trade union per company, which was contrary to the spirit of article 8 of the Covenant. Would that be rectified in the new Labour Code that had been under discussion for some time? Would the new Code also include penalties for discrimination against trade unions and make it an offence to lay off a worker merely for belonging to a union?

34. Mr. SADI asked what the Government intended to do now that it had established the link between the use of pesticides and health problems such as brain damage in children and sterility. He sought assurances that it would also be taking steps to control the problem of cyanide discharges in mining operations. The rights to life and health must take priority over profits, and the developing countries should not make the mistake of valuing markets above human life.

35. Mr. CEAUSU sought clarification on exactly what was meant by having "some employment problem", in paragraph 38 of the report (E/1990/5/Add.40).

36. He had taken note of the Government's initiatives in the area of vocational training and the courses described in paragraphs 47 and 48 of the report, and asked if the figures of 21,000 men and 14,000 women given in paragraph 53 referred to people who had attended courses organized by the National Vocational Training Institute. He also wondered if there were vocational secondary schools where youngsters were taught a trade.

37. He asked for more details on the retroactive effect of wage adjustments mentioned in paragraph 67. How high was the minimum wage, and was all or part of it taxable? With regard to health and safety at work, he would like to know how many inspectors there were, and to which State body they reported. Was the Social Security Department obliged to shut down production if an inspector made a proposal to that effect?

38. The CHAIRPERSON invited the Honduran delegation to reply to the points raised by the Committee members.

39. Mr. PONCE TURCIOS (Honduras) said there were three transnational banana companies - one British and two from the United States - in Honduras. However, banana production, for so long vital to the country's economy, was in a state of crisis: the fruit had been replaced by coffee and timber as the country's leading export and could soon fall behind melons and seafood too. Needless to say, the drastic fall in production had been accompanied by job losses. The leading banana exporter in the region was currently Ecuador, where prices were far lower, basically because the trade unions were not as strong there as in Honduras, where they

were more powerful than in any of its near neighbours. However, with the decline in the banana industry, where the unions had always been traditionally strong, and growth in other areas such as the assembly plants, union membership was falling.

40. It was thanks to the trade unions in the banana industry that the Labour Code had been adopted 44 years earlier to protect workers, but there had always been problems in implementing the Code; companies had found legal ways to get round it, for instance by splitting up into smaller parts and so weakening the unions. Strong unions had pushed up labour costs but could not prevent mass lay-offs, which were perfectly legal. The first moves to reform the Code had been made in 1993, and since then indications as to their effect had been sought from both workers and employers. In a country like Honduras, the new Code, which should be finalized by the end of 2001, would be accepted only if it was based on consultations with all parties concerned. One of the most important reforms concerned article 2, paragraph 2 of the Code, which effectively restricted its application to urban workers, excluding, in particular, those working for agricultural or livestock businesses employing less than 10 people - the majority of such undertakings. The provision was clearly in breach of several ILO conventions and would be eliminated.

41. Under a further reform, labour rights had been extended to domestic workers. They earned more than the minimum wage but except in the rural areas domestic labour was difficult to obtain as workers were attracted by still higher wages in the factories. Another important aspect of the reform of labour legislation was the protection afforded to trade union rights, inter alia through the addition of a special chapter to protect the right of association. There were special labour courts to which workers, and in particular union leaders, could make a complaint relating to the right of association, and in theory workers could not be dismissed until the court had reached a decision. However, that was not working in practice and those mechanisms needed to be tightened up.

42. Companies planning to cut production offered compensation, but many workers preferred the stability of a job and benefits negotiated through collective bargaining to a lump sum. Visible unemployment stood at 5.5 per cent and under-employment at 22-23 per cent in an economically active population of 2.2 million. The population of Honduras was young, with the over 60s accounting for only 5 per cent of the economically active population. Forty per cent of the economically active population was in the formal sector. Labour statistics for Honduras were, however, often unreliable and the Government was receiving assistance from a regional programme of the Secretariat for Central American Economic Integration (SIECA) that would make it possible inter alia to obtain reliable labour and employment statistics. As to the options for bringing down unemployment, the Government had launched a number of programmes aimed at maintaining sources of employment and providing technical training for the workforce. Many companies avoided Honduras on account of its skills shortage.

43. The adjustment of the minimum wage was decided at the end of each year at a tripartite meeting of representatives of both sides of industry, with the Government acting as mediator. The rate was adjusted if annual inflation had exceeded 12 per cent.

44. As Mr. Texier had noted, the Labour Code did indeed permit only one trade union per company. The fact was that the workers were opposed to multiple unions, since that situation could be exploited by the employers. Trade union membership, at 200,000, was substantial, but had stagnated for some seven years, while the population had grown.

45. In an attempt to prevent lay-offs, which were legal, the Government was pursuing a policy of social dialogue to encourage both sides to reach agreement and, wherever possible, obviate them. The Government also encouraged dialogue on labour law reform. The labour legislation of Honduras, unlike that of many other countries, did not specify the sanctions to be applied in the case of infringements, so penalties generally took the form of fines, which were often not enforced. The best guarantors of trade union rights were the trade unions themselves, supported by the competent authorities.

46. Regarding the provision for the retroactive payment of wage adjustments, wage negotiations often lasted for two years or more and the purpose was to protect workers against possible delaying tactics on the part of the employers.

47. The National Vocational Training Institute and the technical colleges offered courses in basic occupational skills. Given the severe shortage of skilled labour in the country, the situation was admittedly not satisfactory. Vocational training courses were also available to members of the armed forces.

48. Turning to health and safety at work, he said that the country had only 14 poorly trained inspectors. The Government was currently setting up a new collective system for the settlement of industrial conflicts which it hoped would facilitate the work of both the inspectors and the courts. Inspectors were invested with extensive powers and could legally enter industrial premises, accompanied by the police, at any time. Industrial development zones presented a problem of access for inspectors and the Government was launching a programme to station inspectors within such complexes. Nine additional inspectors were needed for that purpose, but the necessary resources were not currently available. Inspectors had the power to order a suspension of industrial operations if life and limb were in jeopardy.

49. Mr. MEDINA (Honduras) said that the social security system had been established in 1995. Since then special funds had been emerging for some groups of professionals such as military personnel, teachers and public employees, thus fragmenting the system and bringing it to the brink of collapse. The Government was considering various remedial measures such as scrapping the monetary ceiling and assigning a more substantial role to the State. Discussions were proceeding with all the parties concerned.

50. Mr. CARÍAS (Honduras) stressed that health was a matter of the utmost concern in Honduras, especially the rise in the incidence of contagious diseases. As far as pollutants were concerned, significant progress had been made on the legal front. A bill was before Congress aimed at improving hygiene and sanitation in the country. An inter-agency committee had been set up, as well as a centre for pollution research. The Government had plans to promote occupational health in accordance with ILO standards. Complaints from workers were to be encouraged in order to facilitate law enforcement, and greater emphasis would be laid on monitoring and supervision. The Ministry of Health, in response to public demand, had been

concentrating on primary health care. As far as pesticides were concerned, the long-term consequences were not yet clear. Responsibility did not lie exclusively with the Ministry of Health.

51. Mr. MEDINA (Honduras) hoped that members of the Committee had not gained the erroneous impression that health had been sacrificed to economic interests. The Government had taken various measures to protect the environment, including impact studies and environmental rehabilitation strategies. The days when companies could freely pollute natural resources, putting human health and life at risk, were over. There was no denying that pollution was still taking place, but new legislation and new powers would ensure its monitoring and containment.

52. Ms. CASTELLON VILLELA (Honduras), replying to a question put the previous day, explained that the Government had encouraged the development of special industrial zones as a means of job creation and to promote the transfer of technology.

53. Regarding tax on minimum wages, she said that economic structural adjustment programmes included social compensation. There was no direct tax on income at the minimum wage level, though of course everyone was subject to indirect taxation, notably sales tax. VAT was not levied. A current bill envisaged raising the tax ceiling.

54. Mr. PONCE TURCIOS (Honduras) added that there were six categories of minimum wage by industrial sector and two bands within each category, one for companies with 1 to 15 employees and one for companies with 16 or more employees. Two sets of tables were published monthly for nominal and real minimum wages, computed on the basis of the basket of basic commodities.

55. Mr. TEXIER suggested that it should be possible to verify in law whether there were genuine economic grounds for collective dismissals. In his country, judges could impose severe penalties and award substantial compensation to workers if such were found not to be the case. With regard to the shortage of skilled labour, he expressed surprise at the apparent lack of plans for a vigorous policy of vocational training with support from bilateral or multilateral agencies. He was startled to hear that the country had only 14 labour inspectors. Every effort should be made to increase their numbers and train them to perform the dual function of health and safety inspectors and advisors.

56. An ILO Committee of Experts had called on several occasions for lifting of the restriction on trade union membership for non-nationals to 10 per cent, as it was incompatible with the ILO Convention on the right of association. Would that restriction be lifted?

57. Mr. MARTYNOV noted that in the rural areas, especially in the west of the country, 96 per cent of the population lived below the poverty line. He wondered whether the Government planned to establish a programme of social security measures to deal with that problem. He asked for clarification concerning the importance accorded by the authorities to child labour.

58. Mr. CARÍAS (Honduras) said that there were two different procedures for the settlement of collective disputes, which were economic, and individual disputes, which were juridical. While individual disputes were settled through the court system, collective disputes were dealt with by the labour administration. The first step in the settlement of collective disputes was mediation and conciliation, the next stage being arbitration (voluntary or compulsory) or strike action. The labour administration was not empowered to deal with individual disputes.

59. Collective lay-offs were authorized by the Ministry of Labour and Social Security. Collective strike action could be legally taken only after other remedies had been exhausted and a strike called by a trade union. It was illegal for workers simply to walk out; employers reporting such action were authorized to dismiss the offenders. Illegal stoppages were more common in Honduras than proper strike action, but in most cases the workers were pardoned without recourse to a collective lay-off.

60. Honduras was interested in building up its stock of skilled workers. One important aspect was education, in the broad sense of the term, for which the country sought assistance from the international community. The admittedly discriminatory provision that 90 per cent of a trade union's members must be Honduran had been removed in the draft amendments currently under consideration. The provision that foreign workers could not earn more than 15 per cent of the total wage bill should also be expunged from the legislation.

61. Mr. PONCE TURCIOS (Honduras) said that, with the help of civil society, the commitment of the Government, and community participation, policies were being formulated for inclusion in the poverty reduction strategy to reduce the excessively high figures of 57 per cent and 75 per cent of households living below the poverty line in urban and rural areas respectively.

62. Mr. MEDINA (Honduras) explained that the Honduran Social Security Institute was responsible for the social security system, which was intended exclusively for workers who received a wage for services rendered. People living below the poverty line who did not fall into that category were dealt with under a special regime and could receive social assistance essentially in the form of medical care in hospitals. However, the authorities were working on plans to improve the situation.

63. Mr. PILLAY said that it was clear that poverty had increased and that the country's poverty reduction strategy was not working. While the official figure for those living below the poverty line was 57 per cent, the true figure was reportedly closer to 80 per cent, with a staggering 96 per cent in the rural areas, where most indigenous people lived. The 1999 FIAN International report claimed that, despite a slight improvement in the economy, the actual poverty rate was rising sharply. The authorities also practised forced evictions - which they had omitted to mention in the report - in violation of the Committee's General Comment No. 7 and the provisions of the Covenant.

64. The indigenous population was obviously discriminated against. The United States State Department reported that they were barred from participating in decisions affecting them and that the courts commonly denied them justice, displaying a bias in favour of affluent, influential non-indigenous inhabitants. They were also dispossessed of their lands. In addition, the 1998

World Health Organization report "Health in the Americas" stated that the indigenous population suffered enormous environmental problems, while being denied basic infrastructure services or subsistence economies. In that, Honduras was violating not only the Covenant, but also its own Constitution.

65. With the huge housing deficit, which the authorities had candidly admitted, over 6,000 people were reportedly living in macro-shelters in Tegucigalpa alone, while the immense overcrowding and poor hygienic conditions in the Colonia macro-shelters made the residents feel that the Government had forgotten them. There, too, Honduras was violating article 128 of its Constitution concerning the right to decent housing. He would like the delegation to say exactly how the Government intended to address those problems.

66. Mr. ATANGANA asked what action had been taken regarding the 3,000 complaints of domestic violence received from women in 1998, which had been shelved owing to the lack of special courts to handle them.

67. Mr. RIEDEL said that the figures for street children were alarming. While the written replies had mentioned a national plan and other measures to combat the problem, he wished to know what active steps were being taken. Could the delegation say what benchmarks the authorities were offering the Committee that it could use when it came to consider its next report?

68. Mr. WIMER-ZAMBRANO said that what caused him most concern was the fact that no mention had been made of specific programmes to deal with the housing deficit in Honduras. He would like more information about what was being done in that area.

69. Mr. SADI observed that Honduras was conducting an extensive deforestation campaign, which was evidently having an enormous impact not only on the environment and ecosystems, but also on all aspects of the indigenous people's lifestyle. He would like to know whether the Government was fully aware of that impact, and sought assurances that it would act to reverse it in due course.

70. Ms. BARAHONA-RIERA said she was most concerned at the plight of street children, especially with regard to child prostitution, which had become something of an organized industry in Honduras, children often being virtually exported there for the purpose. While she applauded the national plan for street children, she was more interested in the proportion of national budget devoted to it. The country's proposed entry into the free trade area, while creating some new sources of employment, would also increase poverty and marginalization. Legal structures were all well and good, but the economic content was very important.

71. Mr. MEDINA (Honduras) said that the Government of President Reina had set itself a moral agenda and had done more than any previous administration to recognize the land rights of the indigenous people, especially the Maya Chorti population. It had committed itself to acquiring land that was already in private hands because it lacked State land. The indigenous people were claiming the right to lands in regions where they had lived traditionally. However, problems arose when land belonging to the State, communal estates (ejidos) or private

individuals was unavailable in the region concerned. Land had been allocated to the indigenous sector on the basis of rights deriving from tradition. However, the law had allowed private individuals to buy or lease those lands.

72. The present Government, like the previous one, had set itself the task of providing the indigenous and black communities with the land needed for their agriculture. However, sometimes conflicts arose among them in their claims for equal rights. The law was the same for all Hondurans and all foreigners living in the country, and case law concerning disputes had been developed by the courts. The Government was already endeavouring to provide the necessary land and had no inclination to dispossess blacks and Indians. Popular movements had brought home to it its responsibility for that sector of the population, highlighted by the fact that the majority of Hondurans had some indigenous blood.

73. The macro-shelters had been built as temporary residences for the victims of Hurricane Mitch, and the Government had a comprehensive housing construction plan whereby people were transferred from the shelters to their own low-cost homes. Some, however, did not wish to be rehoused because, despite the supposedly appalling conditions in the shelters, they had access to education, public services and transport. The conditions might not be of the best, but all the competent ministries were involved in remedying the situation. Incidentally, not all the inhabitants of the shelters had been hurricane victims; some of them had been living in abominable conditions on riverbanks.

The meeting rose at 1 p.m.